



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)Nos.740 to 743 of 2014

V.Jeyaprakash .. Appellant in CMA(MD)No.740 of 2014
S.Kamaraj .. Appellant in CMA(MD)No.741 of 2014
S.Arumugasamy .. Appellant in CMA(MD)No.742 of 2014
S.Lakshmipathi .. Appellant in CMA(MD)No.743 of 2014

Vs.

1.V.M.S.Mohammed Ibrahim

2.Oriental Insurance Company Ltd.,
No.69, West Madha Church Road,
Rayapuram,
Chennai-13.

.. Respondents in all the CMAs

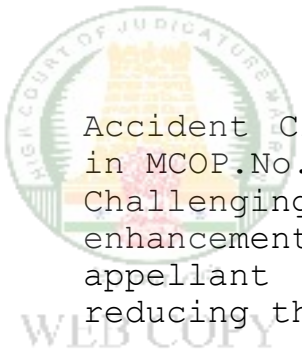
Common Prayer:- Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 12.08.2010 in M.C.O.P.Nos.1031, 1032, 1036 and 1037 of 2005 respectively, on the file of the Motor Accident Claims Tribunal/3rd Additional Sub Court, Tiruchirappalli.

For Appellants : Mr.N.Sudhagar Nagaraj
(in all the CMAs)
For Respondents : Mr.K.Bhaskaran (for R2)
(in all the CMAs)

COMMON JUDGMENT

The appellants/claimants have filed the C.M.A(MD)Nos.740 to 743 of 2014, challenging the award passed in M.C.O.P.Nos.1031, 1032, 1036 and 1037 of 2005 respectively, dated 12.08.2010, on the file of the Motor Accident Claims Tribunal/3rd Additional Sub Court, Tiruchirappalli.

2.CMA(MD)No.740 of 2014 - It is a case of an injury caused on account of the accident took place on 17.12.2004 around 6.30 am near Mullipadi, Maratchi Reddipatti Branch Road. The injured victim filed an application seeking compensation before the Tribunal. Considering the facts and circumstances of the case, the Motor



Accident Claims Tribunal/3rd Additional Sub Court, Tiruchirappalli in MCOP.No.1031 of 2005 awarded Rs.1,03,920/- as total compensation. Challenging the same, the appellant/claimant filed appeal for enhancement of compensation. The learned counsel appearing for the appellant contended that the Tribunal has committed an error in reducing the percentage of the disability from 39% to 30%.

3.The learned counsel appearing for the respondent opposed the grounds of appeal by stating that the nature of the injury more specifically the fracture sustained by the appellant/claimant was completely cured and under those circumstances the Tribunal reduced the disability percentage from 39% to 30%. This part, the total medical bill amount itself was about Rs.8,920/-, which will establish that the nature of the injury sustained was not so grievous. When the medical bills itself is only for Rs.8,920/-, this Court cannot enhance the compensation. Further, the Doctor Certificate was obtained after a lapse of 5 years from the date of accident and therefore the credibility of the doctor certificate needs to be questioned. Considering the facts and the circumstances of the case, this Court is not inclined to enhance the quantum of compensation awarded by the Tribunal and accordingly the award passed by the Tribunal in MCOP.No.1031 of 2005, dated 12.08.2010, is confirmed and the Civil Miscellaneous Appeal (MD)No.740 of 2014 is dismissed.

CMA(MD)Nos.741, 742 and 743 of 2014

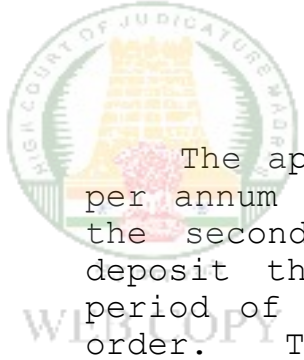
In all these appeals, the facts and the circumstances of the above cases connected with Civil Miscellaneous Appeal (MD)No.740 of 2014 and all the accidents arose on account of the same accident. But, the Tribunal awarded Rs.1,03,920/- in one case and for the similar injuries, the Tribunal has awarded only Rs.96,700/-. The peculiar aspects to be interfered in these three appeals are that the Tribunal awarded Rs.2,000/- for 1% of disability in MCOP.No.1031 of 2005 and in other applications, the Tribunal awarded only Rs.1,500/- for 1% of disability. The reduction of compensation of Rs.2,000/- to Rs.1,500/- for other cases were not substantiated nor distinguished by the Tribunal. The reason for reduction was not stated and in the absence of any reason for reducing the quantum of amount for the percentage of disability, this Court is of the opinion that the appellants are entitled for enhancement on par with the compensation awarded in MCOP.No.1031 of 2005. Accordingly, the quantum of compensation in CMA(MD)Nos.741, 742 and 743 of 2014 are enhanced from

Rs.96,700/- is enhanced to Rs.1,03,920/- (MCOP.No.1032/2005)

Rs.82,930/- is enhanced to Rs.97,930/- (MCOP.No.1036/2005)

Rs.82,150/- is enhanced to Rs.97,150/- (MCOP.No.1037/2005)

Accordingly, all the three appeals are partly allowed and the award passed by the Motor Accident Claims Tribunal/3rd Additional Sub Court, Tiruchirappalli, dated 12.08.2010 in all other respects, is confirmed.



The appellants/claimants are entitled for the interest of 7.5% per annum for the enhanced amount of compensation and accordingly, the second respondent/Oriental Insurance Company is directed to deposit the entire award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order. The appellants/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal. No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The III Additional Sub Judge,
Motor Accident Claims Tribunal/
Tiruchirappalli.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,Madurai.

+1 cc TO.MR.N.SUDHAGAR NAGARAJ, ADVOCATE,SR NO:73617

+4 CCS TO MR.K.BHASKARAN, ADVOCATE,SR NOS.73487,73486,73485&73484

vsa

MAS/MR:28.03.2017:3P-8C

C.M.A(MD)Nos.740 to 743 of 2014
28.11.2016