



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.11.2016

CORAM

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

C.M.A.(MD).No.9 of 2015

and

M.P(MD)No.1 of 2015

M/s.Oriental Insurance Company Ltd.,
rep. by its Branch Manager,
Door No.1, Salai Street,
Laiyola Building,
Dindigul.

.. Appellant /3rd Respondent

Vs.

1.T.Pandikannan

... 1st Respondent / Petitioner

2.S.Kottairaj

3.R.Dinesh

..Respondents 2 & 3 / Respondents 1&2

(Respondents 2 and 3 are given up)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of the Motor Accident Claims Tribunal cum Sub Court, Periakulam, made in M.C.O.P.No.38 of 2012, dated 04.02.2014 and allow the appeal with costs.

For Appellant

: Mr.C.Jawahar Ravindran

For RR1

: No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed to set aside the order passed in M.C.O.P.No.38 of 2012, dated 04.02.2014, on the file of the Motor Accident Claims Tribunal cum Sub Court, Periakulam.

2. It is a case of an injury caused in an accident took place on 15.02.2011 around 7.50 p.m. near Saravana Stores Rice Shop on Periyakulam Road. The injured filed an application seeking compensation before the Motor Accident Claims Tribunal, Sub Court,



Periyakulam. The Tribunal, by considering the facts and circumstances of the case awarded a sum of Rs.10,00,000/- as total compensation.

3. Challenging the same, the appellant Oriental Insurance Company preferred the present appeal, on the ground that the quantum of compensation granted by the Tribunal is excessive. Since it is a case of amputation of left hand and the Tribunal has adopted the multiplier and granted a compensation of a sum of Rs.9,79,200/- towards loss of income. When the multiplier is adopted and the loss of income of Rs.9,79,200/- was awarded, the Tribunal ought not to have granted Rs.1,70,000/- towards disability and hence, the award amount has to be reduced.

4. Heard the learned counsel for the appellant and perused the materials available on record.

5. Considering the facts and perusal of records, this Court is of the view that the Tribunal though granted Rs.1,70,000/- towards disability, the same was not added along with the compensation awarded and in fact the compensation of Rs.9,79,200/- was awarded as loss of income by adopting the multiplier of $6000 \times 12 \times 80 / 100 \times 17$. After adopting the said multiplier the Tribunal awarded Rs.9,79,200/- and the Tribunal, finally rounded off the compensation as Rs.10,00,000/-. Therefore, as per the contention of the learned counsel for the appellant, the Tribunal has not actually granted the amount of Rs.1,70,000/- towards the disability. Such being the findings of the Tribunal, this Court is not inclined to reduce or reconsider the quantum of the award granted by the Tribunal and accordingly, the award passed by the Motor Accident Claims Tribunal cum Sub Court, Periyakulam, in M.C.O.P.38 of 2012, dated 04.02.2014 is confirmed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

7. The appellant is directed to deposit the entire award amount with accrued interest and costs to the credit of M.C.O.P.No.38 of 2012 on the file of the MACT/Sub Court, Periyakulam, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the respondent/claimant is directed to withdraw the same through RTGS by filing necessary applications before the Tribunal concerned.

Sd/-

Assistant Registrar (Cr1.Side)



To

The Subordinate Judge,
The Motor Accident Claims Tribunal,
Periyakulam.

COPY TO:

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

+1cc to Mr.C.JAWAHAR RAVINDRAN, Advocate Sr.No. 73267

+1cc to Mr.R.A.MOHAN RAM, Advocate Sr.No. 73815

JAM/04.01.2017/PV/3P- 5C

C.M.A. (MD) No. 9 of 2015

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