



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.699 of 2013

and

M.P.(MD)No.1 of 2013

The Oriental Insurance Company Ltd.,
3217, Keezha Main Street,
Pudukkottai - 622 001.

.. Appellant

Vs.

1.Rengasamy
2.G.Gobalu
(Respondent No.2 given up)

.. Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree passed in M.C.O.P.No.261 of 2005, dated 27.01.2010 on the file of the Motor Accident Claims Tribunal-cum-III Additional Sub Judge, Trichy.

For Appellant : Mr.C.Jawahar Ravindran
For Respondent : Mr.N.Sudhagar Nagaraj (for R1)

JUDGMENT

The appellant/Oriental Insurance Company has filed the present C.M.A(MD)No.699 of 2013, challenging the award passed in MCOP.No.261 of 2005, dated 27.01.2010, on the file of the Motor Accident Claims Tribunal-cum-III Additional Sub Judge, Trichy.

2.It is a case of a grievous injury caused on account of an accident took place on 25.09.2004 at about 08.00 p.m. near Manamettupatti branch road. The injured victim filed an application seeking compensation before the Motor Accident Claims Tribunal-cum-III Additional Sub Judge, Trichy. Considering the facts and circumstances of the case, the Tribunal awarded Rs2,73,895/- as total compensation. Challenging the award, the appellant/Oriental Insurance Company has preferred the present appeal on the ground that it is a case of one fracture in the right leg and the Tribunal erroneously adopted the multiplier method for assessing the compensation, which is in violation of the principles laid down of this Court as well as the Hon'ble Apex Court. Hence, the quantum of compensation is to be reduced.



3.The learned counsel appearing for the first respondent opposed the appeal by stating that the first respondent/claimant sustained a grievous fracture causing disability and therefore, the multiplier adopted by the Tribunal is in order and the award require no re-consideration.

4.Heard both sides.

5.Considering the facts and circumstances of the case and on reading of the findings of the Tribunal, this Court is able to find it is a case of a single fracture and therefore the Tribunal ought not to have adopted the multiplier method for assessing the quantum of compensation. In such cases, the principle to be adopted is that Rs.2,000/- for 1% of disability shall be considered. Adopting the same, this Court is inclined to reduce the quantum of compensation in respect of partial permanent disability, which is to be assessed as Rs.2,000/- for 1% of disability. Consequently, the total compensation would be $50,000 \times 2 = 1,00,000/-$ and the awarded amount of Rs.10,000/- on the head of pain and sufferings is enhanced to Rs.25,000/-. Accordingly, the compensation of Rs.2,73,895/- awarded by the Tribunal is reduced to Rs.1,84,895/-. Therefore, the Civil Miscellaneous Appeal is allowed and the award passed by the Motor Accident Claims Tribunal-cum-III Additional Sub Judge, Trichy, is modified by reducing the quantum of compensation from Rs.2,73,895/- to Rs.1,84,895/-.

6.The appellant/Oriental Insurance company is directed to deposit the modified award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. The first respondent/claimant is permitted to withdraw the reduced quantum of compensation of Rs.1,84,895/- with accrued interest through RTGS, by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

/True Copy/

Sub-Assistant Registrar

To

1.The IIIrd Additional Subordinate Judge

The Motor Accident Claims Tribunal, Trichy.

2.The Section Officer, V.R.Section,

Madurai Bench of Madras High Court, Madurai

+One cc to Mr.N.Sudhagar Nagaraj, Advocate, SR.No.73090

vs

RL/4C/2P/GSV/PM/3.1.2017

C.M.A(MD)No.699 of 2013

and

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