

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.1851 of 2013  
and M.P.No.1 of 2013

The United India Insurance Co. Ltd.,  
Third Party Motor Claims Cell  
No.73-C, M.T.H.Road,  
Ambattur, Chennai - 600 053. .. Appellant  
Vs.

1.D.Subramani  
2.T.Gunasekaran .. Respondents  
[R2 - Expate in Lower Court]

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.07.2011 made in MCOP.No.348 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District Judge - Fast Track Court No.IV) at Ponneri.

For Appellant : Mr.R.Ravichandran  
For Respondents : Ms.M.Malar [ for R1]  
R2 - Exparte

JUDGMENT

The insurance company, the second respondent before the Tribunal has come forward with this appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in MCOP.No.348 of 2008 on the file of the MACT (Additional District Judge - Fast Track Court No.IV) at Ponneri. In a road accident that took place on 12.03.2008 at about 10.30 p.m., when the claimant was going in his motor cycle, a Maruti van bearing No.TN07 AH 2122 came rashly and negligently and knocked the claimant down, due to which he suffered grievous injuries. Seeking a compensation of Rs.3,00,000/-, he moved the Tribunal and after evaluating the evidence produced, the Tribunal passed an award for Rs.1,50,000/- payable with interest at 7.5% per annum. This is now in challenge.

2. The learned counsel for the appellant contended that for the kind of injuries that the appellant had suffered, the quantum of compensation paid is excessive.

3. On perusing the records, this Court finds that the claimant has suffered fracture of upper jaw, but the same was mal-united, owing to which the appellant would find perennial difficulties in chewing and swallowing food. Further, even his right bone above his right eye too fractured and was malunited. P.W.2, the doctor has fixed the disability at 60%.

4. The nature of injury that the claimant had suffered to his upper jaw and the fact that he will have continuous difficulty in taking food, imply the quality of life of the claimant has been altered substantially. If so viewed, this Court finds that the compensation of Rs.1,20,000/- awarded by the Tribunal on the head of permanent disability appears appropriate. I do not find any material to warrant any interference in the award passed by the Tribunal.

5. In the result, I find no merit in the appeal and the same is dismissed without costs. The appellant/insurance company is directed to deposit the award amount of compensation with accrued interest, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this order, whereupon the claimant would be permitted to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ds  
To:

The Additional District Judge  
Fast Track Court No.IV  
Motor Accidents Claims Tribunal  
Ponneri.

+ 1 cc to M/s. M. Malar, Advocate Sr.56158

C.M.A.No.1851 of 2013

RJ(CO)  
EU(25/10/2017)