

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM : THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.38 of 2006  
and CMP.No.145 of 2006

The Divisional Manager,  
 United India Insurance Co. Ltd.,  
 Cuddalore.

.. Appellant

Vs.

1.R.Radhamanoharan  
 2.N.Ramakrishnan

.. Respondents

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.07.2005 made in MCOP.No.612 of 2003 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.S.Arun Kumar  
 For Respondents : No Appearance

**JUDGMENT**

Challenging chiefly the quantum of compensation awarded by the Tribunal, the insurance company has come forward with this appeal.

2. On 6.6.2002, at about 4.00 p.m. the claimant while travelling with his cousin in a two wheeler along the Cuddalore-Panruti Main Road, a lorry belonging to the second respondent and insured with the appellant dashed against the motorcycle, owing to which the claimant suffered multiple injuries all over the body. For the injuries suffered in the accident, he moved the tribunal seeking compensation of Rs.5,00,000/-, as against which the Tribunal passed an award

for Rs.2,49,320/- directed its payment with interest at 9% p.a., and fastened the liability jointly and severally on the owner of the offending vehicle as well as its insurer, the appellant herein. The break-up of compensation on various heads is as follows :

| <b><i>Heads of Compensation</i></b> | <b><i>Award Amount<br/>(Rs.)</i></b> |
|-------------------------------------|--------------------------------------|
| Towards permanent disability        | 2,16,000.00                          |
| Pain and sufferings                 | 10,000.00                            |
| Extra nourishment                   | 5,000.00                             |
| Transportation                      | 1,000.00                             |
| Medical expenses                    | 17,320.00                            |
| <b><i>Total :</i></b>               | <b><i>2,49,320.00</i></b>            |

3. The learned counsel for the appellant argued that the Tribunal had gone wrong in determining the disability of the claimant as functional disability and it should not have applied the multiplier method for determining the compensation.

4. Notice of this appeal has not been served by the claimant. The appeal itself is pending for 11 years. The learned counsel for the appellant submitted that no appeal has been preferred by the claimant as yet. Therefore, this Court opted to consider the merit of appellant's contention on its own strength.

5. The compensation held payable on the head of permanent disability itself constitutes Rs.2,16,000/-. For adopting the multiplier, it relied on the evidence of P.W.2, the doctor who assessed the extent of disability suffered by the

claimant at 40%. It may be stated that the claimant had suffered fracture of his lower part of right femur which was surgically corrected with necessary implants, owing to which, the movement of his right leg was considerably restricted. The fact that he was an agriculturist weighed with the Tribunal for opting for the multiplier method for determining the compensation. The Tribunal has notionally fixed the annual income of the victim at Rs.14,400/- and applied a multiplier of 15 and arrived at Rs.2,16,000/-.

6. On carefully going through the evidence, this Court finds that the approach of the Tribunal cannot be faulted as it does not disclose any error or infirmity to warrant interference.

7. In the result, the appeal is dismissed. The appellant/insurance company is directed to deposit the entire award amount determined by the Tribunal along with accrued interest, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this order, whereupon, the claimant is entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No  
Internet : Yes/No

N.SESHASAYEE,J

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To:

1. The Principal Sub Judge  
Motor Accidents Claims Tribunal  
Cuddalore.
2. The Section Officer  
VR Section  
High Court, Madras.



CMA.No.38 of 2006

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