



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1032 of 2017

Chidambaram

... Appellant/Petitioner

Vs.

1. Ravi

2. The Branch Manager,
United India Insurance Co.Ltd.,
Madurai.

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 07.12.2011 made in M.C.O.P.No.470 of 2006 on the file of Motor Accident Claims Tribunal (Principal Sub Court), Dindigul, insofar as it relates to quantum of compensation granted by the Tribunal, to enhance the compensation

For Appellant : Mr.V.Janakiramulu

For R2 : Mr.A.S.Mathialagan

JUDGMENT

The injured claimant has filed this appeal, seeking enhancement of the compensation awarded to him. The claimant was on a pilgrimage on 10.02.2006. At about 19.30 hours, while he was walking on the left side of Semapatti-Odanchatram Road, the two-wheeler bearing Registration No.TN 57-D-5573, belonging to the first respondent herein and insured with the second respondent herein, hit him from behind. The claimant suffered severe head injuries and also injuries all over his body. He was admitted to Christian fellowship Hospital, Oddanchatram and he was taken for higher treatment to Madurai Vadamalayan Hospital, where he was an inpatient for more than a month. He continued to take treatment.

2. A case on Crime No.20 of 2006 was registered against the rider of the two wheeler on the file of the Kannivadi Police Station.

3. The learned counsel appearing for the appellant would submit that the claimant was working as a Grade I - Helper in Public Works Department at the time of the accident and that on account of the accident, he could not continue to be in employment. He applied and got Voluntary Retirement. He submit that even though it was stated as functional disability, the Tribunal awarded a sum of Rs.64,700/- alone. He, therefore, prayed for the enhancement of the compensation awarded to him.



4. It is seen that the claimant suffered injuries on the head and the doctor assessed the disability suffered by him as 35%. The Certificate issued by the doctor was marked as Exhibit-P.8. The concerned doctor was also examined as P.W.3. The Tribunal, however, chose to reduce the personal disability from 35% to 28%. There is no basis or justification for such reduction. The respondent has not adduced any rebuttal evidence. I am of the view that the disability suffered by the claimant must have been taken as 35%. Therefore the compensation payable to the claimant will have to be re-worked as under:-

Sl.No	Heads	Amount in Rupees
1.	Disability compensation (35xRs.3000)	Rs.1,05,000/-
2.	For Loss of income	Rs. 15,000/-
3.	For Medical Expenses	Rs. 25,000/-
4.	For Pain and sufferings	Rs. 30,000/-
5.	For Attendant's Charges	Rs. 10,000/-
6.	For Extra nourishment	Rs. 10,000/-
7.	For Transportation	Rs. 5,000/-
	Total	Rs.2,00,000/-

5. The compensation awarded by the Tribunal is enhanced from Rs.64,700/- to Rs.2,00,000/-. The second respondent insurance company is directed to deposit the entire compensation amount of Rs.2,00,000/- (Rupees Two lakhs only) with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6. This Civil Miscellaneous Appeal is partly allowed. The award dated 07.12.2011 made in M.C.O.P.No.470 of 2006 on the file of Motor Accident Claims Tribunal (Principal Sub Court), Dindigul, is accordingly modified. No costs.

Sd/-

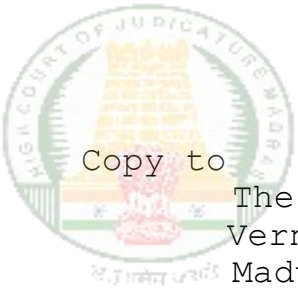
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Principal Sub Judge,
Motor Accident Claims Tribunal,
Dindigul.



Copy to
The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. **(2Copies)**

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+1CC to Mr.V.Janakiramulu, Advocate, SR.No.92830
+1CC to Mr.A.S.Mathialagan, Advocate, SR.No.92754

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ES/JC/SAR 4/13.06.2018/3P/6C