



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1083 of 2015

K.Gowtham

... Appellant / Petitioner

Vs.

1. J.Deepam

(1st respondent exparte before the
lower Court, hence, notice is
dispensed with)

2.The Divisional Manager,

The Oriental Insurance Co. Ltd.,

Divisional Officer - I,

3rd Floor, Bangur Dharmasala Building,

6-A, West Veli Street,

Madurai. - 625 001

... Respondents / Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, to
set aside the judgment and decree passed in M.C.O.P.No.98 of 2010
on the file of the Principal Subordinate Judge, Madurai dated
02.03.2015.

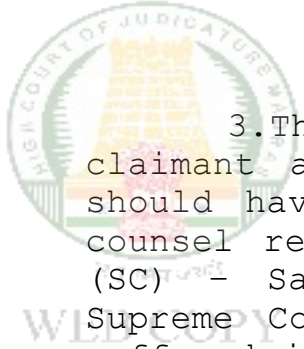
For Appellant : Mr.C.Vakeeswaran

For Respondents : Mr.K.Bhaskaran for R2
R1- exparte

JUDGMENT

Aggrieved by the inadequate compensation awarded by the Tribunal, the claimant has filed this appeal seeking enhancement over and above the amount awarded in M.C.O.P.No.98 of 2010 by the Tribunal/Principal Subordinate Court, Madurai.

2.The appellant was travelling as a pillion rider in the accident in question took place. The appellant suffered grievous injuries. He was an inpatient for 18 days. He suffered amputation in the right leg. He was aged 18 years when the accident took place. He was then working as a labour in garments factory. He sought compensation of a sum of Rs.12,00,000/-. The Tribunal awarded a sum of Rs.6,20,600/- with interest. Aggrieved by the same, this appeal has been filed.



3.The Tribunal ought to have fixed the income of the claimant at Rs.4,500/-. Since he was aged only 18 years, it should have awarded 50% towards future prospects. The learned counsel relied upon the decision reported in 2014(1) TN MAC 473 (SC) - Sanjay Kumar Vs. Ashok Kumar rendered by the Hon'ble Supreme Court. That was also a case of a skilled worker who suffered injuries. The Hon'ble Supreme Court awarded adding 50% as future prospects. Since the claimant has suffered amputation of leg, it has to be assessed as 70%. In view of the functional disability, loss of income will have to be calculated by applying multiplier method. Hence, the loss of future income will have to be quantified as $\text{Rs.6750} \times 12 \times 18 / 70\% = \text{Rs.10,20,600/-}$. Towards pain and suffering, Rs.40,000/- for future medical expenses, Rs.70,000/- and towards medical expenses Rs.20,000/- and for extra nourishment Rs.5,000/- can be awarded. Thus the compensation payable to the appellant is quantified at Rs.11,55,600/-. The compensation awarded by the Tribunal is accordingly enhanced to Rs.11,55,600/-.

4.In the result, the civil miscellaneous appeal is allowed and the award dated 02.03.2015 passed in M.C.O.P.No.98 of 2010 on the file of the Principal Subordinate Judge, Madurai is modified as indicated above. The second respondent is directed to deposit the balance of the enhanced compensation to the credit of M.C.O.P.No.98 of 2010 on the file of the Principal Subordinate Judge, Madurai, within a period of twelve weeks from the date of receipt of a copy of this order with 7.5% interest from the date of claim petition till the date of realization. On such deposit, the appellant is permitted to withdraw the entire compensation with accrued interest, by filing proper application before the Tribunal. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

Arul
To

The Principal Subordinate Judge, Madurai.
COPY TO:-

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

+1 CC TO Mr.C.VAKEESWARAN, Advocate, Sr.No.82435
+1 cc to Mr.K.BHASKARAN, Advocate, Sr.No.82358
JAM/20.12.17/MR/ SAR 1 / 2p-5c