



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .Nos.12 and 13 of 2017

and

C.M.P. (MD) .Nos.181 and 182 of 2017

The Divisional Manager,
Royal Sundaram Alliance
Insurance Co.Ltd,
Sundaram Towers,
Nos.45,46 Parry's
Chennai.

... Appellant/Respondent - 2
in both C.M.As

Vs.

1.C.G.Vijilal

... 1st Respondent / Petitioner
in C.M.A.(MD)No.12 of 2017

1.Anup Chandran

... 1st Respondent / Petitioner
in C.M.A(MD) .No.13 of 2012
in both C.M.As

2.Muthirulandi

... 2nd Respondent/Respondent-1
in both C.M.As

Common Prayer:- Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order dated 31.10.2014 and made in M.C.O.P.Nos.30 and 31 of 2012, on the file of Motor Accident Claims (Chief Judicial Magistrate), Ramanathapuram.

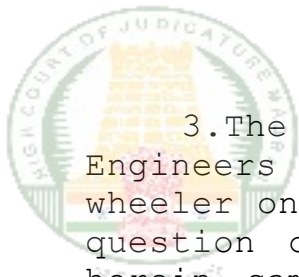
In both Appeals

For Appellant	: Mr.S.Srinivasa Ragavan
For R1	: Mr.V.Ragavachari
For R2	: No appearance

COMMON JUDGMENT

Heard the learned counsel on either side.

2.The insurer has filed these appeals questioning the impugned awards on the ground of quantum.



3.The claimants in these cases are working as Mechanical Engineers in the Indian Coast Guard. They were travelling on a two wheeler on 19.11.2011 at about 04.15 p.m, when the accident in the question occurred. The Scorpio car insured with the appellant herein came from the opposite direction and dashed against the claimants' two wheeler. In the resulting accident, the claimants suffered serious injuries in the nature of fracture. Crime No.282 of 2011, was registered, on the file of the Uchipuli Police Station and the case was also subsequently charge sheeted. The claimants filed M.C.O.P.Nos.30 and 31 of 2012, on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Ramanathapuram.

4.The claimants examined not only themselves, but also their Superior Officer, Sri Subash Kumar as P.W.3. It was categorically established before the Tribunal that on account of the injuries suffered by them their promotional prospects have been totally impaired. In other words, while they would not lose their existing job and suffer reduction in salary, they would not be able to obtain promotion which would have been due in normal course. If they get promoted, they would definitely be getting a higher pay. Therefore, taking the loss of future prospects in their service career, the Tribunal awarded a sum of Rs.5,00,000/- in M.C.O.P.No.30 of 2012 and Rs.6,50,000/- in M.C.O.P.No.31 of 2012. It is this component which is assailed by the insurer in these appeals.

5.I am of the view that admittedly the claimants have suffered the financial loss on account of the disability suffered by them in the accident in question. C.J.Vijilal, claimant in M.C.O.P.No.30 of 2012, was employed as a Pradhaan Navik and his next promotional post is Adhigari. The claimants were employed as Utham Navik at the time of the accident. The accident occurred in the year 2011. They would have become Pradhaan Navik by the year 2013. But it is purely on account of the injuries suffered from the accident in question, the claimant continues to be a Pradhaan Navik even today, that is, 29.11.2017. Similar stagnation has occurred in the case of the other claimant, Anub Chandran, the claimant in M.C.O.P.No.31 of 2012.

6.I am of the view that the Tribunal was justified in awarding certain sums towards loss of promotional benefits. Therefore, the impugned awards did not call for any interference.

7.In C.M.A.(MD).No.12 of 2017, the appellant /Insurance company and second respondent are directed to pay the compensation amount of Rs.6,75,000/- with interest at the rate of 7.5% per annum and costs from the date of petition till the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit the claimant/first respondent



is entitled to withdraw the entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

8. In C.M.A. (MD). No. 13 of 2017, the appellant / Insurance company and second respondent are directed to pay the compensation amount of Rs. 8,57,000/- with interest at the rate of 7.5% per annum and cost 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/first respondent is entitled to withdraw the entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

9. These Civil Miscellaneous Appeals are dismissed accordingly. No costs. Consequently, the connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
The Motor Accident Claims,
Ramanathapuram.
2. Muthirulandi,
S/o. Ramachandran,
Oda Thope, Mandapam Post,
Ramanathapuram District.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court
Madurai. (2 COPIES)

+ 2 ccs TO Mr. V. Ragavachari, Advocate in SR No. 91283
+ 1 cc TO Mr. S. Srinivasa Ragavan, Advocate in SR No. 91027

tsg/Ls

AE/KK/SAR3/01.03.2018/3P/8C

C.M.A. (MD) .Nos. 12 and 13 of 2017
05.12.2017