



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.1109 of 2015
and
M.P.(MD) No.1 of 2015

United India Insurance Company Limited,
Kumbakonam,
through its Branch Manager.
vs

... Appellant/2nd Respondent

1.Kumar @ Senthilkumar

... 1st Respondent/Petitioner

2.Veerasamy

... 2nd Respondent/ 1st Respondent

(2nd Respondent is set exparte in Tribunal:
Notice may be dispensed with)

Prayer: Appeal filed under 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.208 of 2014, dated 04.06.2015 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Kumbakonam and allow the appeal with costs.

For Appellant : Mr.J.S.Murali

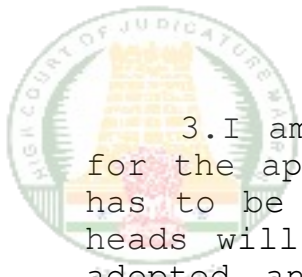
For R1 : Mr.S.Rajaprabhu

For R2 : Dispense with vide EB

JUDGMENT

The Insurance Company has filed this appeal challenging the impugned award on the ground of quantum.

2.The injured claimant was a mason by profession. He suffered injuries in the leg. The Tribunal adopted the multiplier method. This approach adopted by the Tribunal is very seriously questioned by the learned counsel for the appellant. The claimant appeared before me in-person. He was aged about 29 years, at the time of accident. In view of the very serious injuries suffered in his right leg, he is no longer able to pursue his earlier avocation as a Mason. The claimant informed the court in-person that no body is calling him for any work.



3.I am of the view that the contention of the learned counsel for the appellant that compensation is slightly on the higher side has to be accepted. Therefore, damages awarded under some of the heads will have to be reduced. Even though multiplier method was adopted and a sum of Rs.8,81,280/- was awarded towards loss of income, the Tribunal chose to award a further sum of Rs.96,000/- towards disability compensation. This has to be deducted. The Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards physical disfigurement. This has also to be deducted. A sum of Rs.35,000/- can be awarded instead of Rs.1,00,000/- towards pain and sufferings.

4.Therefore, the compensation awarded by the Tribunal is reduced from Rs.12,61,490/- to Rs.10,00,000/-. The order dated 04.06.2015 made in M.C.O.P.No.208 of 2014, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Kumbakonam is accordingly modified.

5.The learned counsel for the appellant submitted that the entire award amount has been deposited. It is also further informed that the claimant has withdrawn 50% of the deposited amount. Therefore, the balance award amount as modified this Court can be withdrawn by the claimant by filing proper application before the Tribunal. The remaining amount can be withdrawn by the appellant insurance company.

6.The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Principal Subordinate Judge,
The Motor Accident Claims Tribunal,
Kumbakonam

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1cc to Mr.J.S.MURALI,Advocate,SR. 88977

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and
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CP

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