



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA (MD) No.1127 of 2016

Anbuselvi

... Appellant

Vs.

1.Mahesh

2.Shri Ram General Insurance
Company Ltd,
Through its Branch Manager,
S.N.High Road, Tirunelveli.

3.Sankar

4.United India Insurance Company Ltd,
Through its Branch Manager,
No.5, Gomathiyapuram,
New 1st Street, Balaji Complex,
Sankarankovil.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.06.2013 made in MCOP.No.263 of 2013 on the file of the Motor Accident Claims Tribunal/Special Sub Judge, Tirunelveli.

For Appellant	: Mr.T.Selvakumaran
For Respondents	: Mr.A.Shajakhan for R4 Mr.D.Sivaraman for R2 R3- No appearance R1-Exparte

JUDGMENT

The claimant has filed this appeal seeking enhancement of the compensation awarded to him.

2.This is a case of amputation. The claimant was an agricultural coolie. Therefore, in view of the functional disability caused to her on account of the accident, the Tribunal rightly adopted the multiplier method. The Tribunal awarded a sum of Rs.6,08,730/- as compensation. However, the monthly income was taken only as Rs.3,000/-. The accident took place in the year 2011. Therefore, the monthly income ought to have been taken as Rs.6,000/-. As per the formula set out in Workmen Compensation Act in cases of amputation below the knee, the disability will have to be assessed at 50%.



3.The compensation payable to the claimant will have to be reworked as under :

Loss of earning capacity (6000x12x14x50/100)	: Rs.5,04,000/-
For pain and sufferings	: Rs.1,00,000/-
Loss of income during treatment period	: Rs.36,000/-
Transportation charges	: Rs.10,000/-
Extra nourishment	: Rs.15,000/-
Attender charges	: Rs.10,000/-
Medical expenditure	: Rs.80,000/-
Loss of amenities	: Rs.53,000/-
Total	: Rs.8,08,000/-

4.The award dated 24.06.2013 made in MCOP.No.263 of 2013 on the file of the Motor Accident Claims Tribunal/Special Sub Judge, Tirunelveli is modified.

5.The second respondent insurance company is directed to deposit the sum of Rs.8,08,000/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited if any. On such deposit, the claimant is entitled to withdraw the same by filing proper application before the Tribunal, less the amount already withdrawn by her, if any.

6.This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1.The Special Subordinate Judge,
Motor Accident Claims Tribunal, Tirunelveli.

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

+1CC TO M/S.A.SHAJAHAN, ADVOCATE, SR NO.36068

+1CC TO M/S.D.SIVARAMAN, ADVOCATE, SR NO.92295

CMA (MD) No.1127 of 2016
12.12.2017

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