



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

CMA(MD)No.1150 of 2014 and
MP(MD) No.1 of 2014

Royal Sundaram Alliance Insurance Co. Ltd.,
Represented by its Branch Manager,
Bye pass Road,
Vannarapettai, Tirunelveli. : Appellant/2nd Respondent

Vs.

1.Arul Selvan : 1st Respondent/Petitioner
2.S.Venkatesan : 2nd respondent/1st respondent
3.Dr.Rajalingam : 3rd respondent/3rd respondent

(R-3 is impleaded as 3rd respondent
in M.C.O.P.No.205/13 as per the
order made in I.A.No.358/13, dated 13.09.2013)

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order, dated 28.03.2014 made in MCOP No.205 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal (Special Sub Court), Tirunelveli.

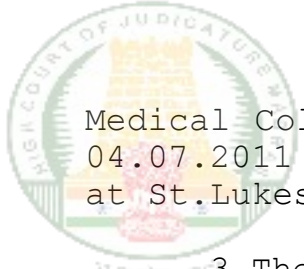
For Appellant : Mr.M.E.Ilango
For R-1 : Mr.T.A.Ebenezer
For R-2 & R-3 : No appearance

JUDGMENT

(Judgment of the Court was made by K.KALYANASUNDARAM,J)

The Insurance Company has preferred this appeal challenging the quantum awarded by the Motor Accident Claims Tribunal(Special Sub Court), Tirunelveli, in MCOP No.205 of 2013, dated 28.03.2014.

2.Facts in nutshell:- The first respondent herein filed the claim petition alleging that on 04.07.2011 at 20.30 hours, when he was driving the motorcycle bearing registration No.TN-69-X-5735 on Tirunelveli to Triuchendur main road, a Maruti Car bearing registration No.TN-69-F-3015 belonging to the second respondent herein, driven by its driver S.Venkatesan came in a terrific speed and without observing the traffic rules, dashed against the motorcycle. In the impact, the first respondent herein suffered serious injuries and immediately, he was taken to Tirunelveli



Medical College Hospital, where he took treatment as inpatient from 04.07.2011 to 19.07.2011. Thereafter, he had been taking treatment at St.Lukes Hospital, Nazareth from 20.07.2011.

3.The claimant has further stated that he was working as a Marker in Jeyaraj Annapackiam CSI College of Engineering, Nazareth and his monthly salary was Rs.8,000/-. Due to the injuries sustained in the accident, he has become bed-ridden and he was not able to do his work. So, he claimed Rs.35,00,000/- as compensation.

4.After analyzing the oral and documentary evidence adduced by the parties the tribunal has awarded the compensation of Rs.19,65,000/-. Against the judgment and decree, the present appeal.

5.We have heard both sides and perused the materials available on record.

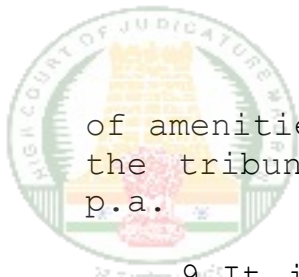
6.The claimant examined himself as PW1 and in his evidence, he has reiterated the averments made in the claim petition. Ex.P2 Accident Register shows that the claimant was aged about 27 years. Ex.P6 is the salary certificate. Based on the evidence of PW1 and Ex.P6, the tribunal has fixed the monthly income of the claimant at Rs.4,716/-. By adding 50% towards future prospects, the income was worked out to Rs.7,104/-, which was rounded off to Rs.7,000/-.

7.PW2 Doctor deposed that the claimant has lost his sensation and assessed the disability at 100% and issued Ex.P7 Disability Certificate, which would run thus:-

"This is to certify that Mr.Arulselvan, aged 29 years, S/o. Isravel, residing at 18th South Street, Akappaikulam, Nazerath, Thoothukudi District is examined by me to asses the disability on him due to an alleged cause of R.T.A. Due to the dislocation of the cervical spine C6 and C7 the spinal cord is completely cut at the cervical region. There is total paralysis of both upper limbs and lower limbs. There is total urinary incontinence and impotence. Both upper limbs and lower limbs are functionless and useless.

The partial permanent disability on him is 100%. HUNDRED. I have taken x-ray, seen wound certificate and AR copy and treatment particulars."

8.The tribunal, accepting the oral and documentary evidence, by applying multiplier 17, awarded Rs.14,28,000/- towards permanent disability; Rs.42,000/- for loss of income during the treatment period; Rs.10,000/- towards transportation; Rs.25,000/- towards extra nourishment; Rs.10,000/- towards maintenance charges of the claimant for helper; Rs.1,00,000/- towards pain and sufferings; Rs.1,00,000/- towards medical expenses; Rs.2,00,000/- towards loss



of amenities; Rs.50,000/- towards future medical expenses. In total, the tribunal has awarded **Rs.19,65,000/-** along with interest @ 9% p.a.

9. It is not in dispute that the claimant was only 27 years old and due to the injuries sustained in the accident, he has become vegetable and he needs support of a person till he breath his lost. In view of the above fact situation, in our opinion, the award of the tribunal appears to be reasonable, warranting no interference of this court.

10. In the result, this Civil Miscellaneous Appeal is **dismissed**. No costs.

11. It is represented that the appellant Insurance Company has already deposited 50% of the award amount, which was withdrawn by the claimant. Hence, the Insurance Company is directed to deposit the balance award amount, less already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, the claimant is permitted to withdraw the entire amount. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

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

Copy To:-

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

+ 1 CC TO Mr.M.E.ILANGO, ADVOCATE IN SR No. 82366
+ 1 CC TO Mr.T.A.EBENEZER, ADVOCATE IN SR No. 82384

SM/GSP/ER

TE/SKN-RSK/SAR-1 : 05/02/2018 : 3P/6C

C.M.A(MD) No.1150/2014
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