



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.11.2017**

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.M.A. (MD) Nos.156 & 157 of 2017**

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1.Jothilakshmi

2.Pothiraj ... Appellants /Petitioners
in CMA(MD)No.156 of 2017

3.Seenivasan ... Appellant/Petitioner
in CMA(MD)No.157 of 2017

Vs.

1. Ganesamoorthy

2. National Insurance Company Ltd,
through its Branch Manager,
No.135/1, Rose Building,
Main Road, Kovilpatti. ... Respondents /Respondents
in both CMAs

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 02.09.2015 made in MCOP.No.716 & 717 of 2013 on the file of the Motor Accident Claims Tribunal, (IV Additional District Judge) Tirunelveli.

For Appellants
in both appeals : Mr.T.Selvakumaran

For Respondents R 1 : No appearance
in both appeals : Mr.A.Ilango for R2
(CMA(MD)No.156 of 2017

: Mr.A.S.Mathialagan for R 2
CMA(MD)No.157 of 2017

COMMON JUDGMENT

Heard the learned counsel on either side.

2.On 22.05.2013, at about 06.00 p.m one Subburaj and Seenivasan were going in a two wheeler. Subburaj was the rider and Seenivasan was sitting in the pillion. At that time, a Mahindra van insured with the second respondent herein dashed against the said two wheeler. In the resulting accident, Subburaj died. Seenivasan is a engineering college student. He also suffered serious injuries in his face. Seenivasan and the



brother and sister of the deceased Subburaj filed claim petitions for claiming compensation.

3. Seenivasan, claimant in MCOP.No.717 of 2013 has filed CMA (MD)No.157 of 2017 seeking enhancement of compensation.

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4. The disability suffered by him was assessed at 36%. The Tribunal awarded a sum of Rs.2,72,000/- with interest. The medical bills alone came to almost Rs.70,000/-. I am of the view that since he had suffered some facial disfiguration, there would be some impact on his marriage prospects. No amount was awarded towards loss of amenities. I am therefore inclined to enhance the compensation awarded in MCOP.No.717 of 2013. The compensation payable to the claimant is reworked as under:

For disability compensation	: Rs.1,08,000/-
Transportation charges	: Rs.22,000/-
For extra nourishment	: Rs.50,000/-
For medical bills including future medical expenses	: Rs.1,00,000/-
For pain and sufferings	: Rs.75,000/-
Loss of amenities	: Rs.17,000/-

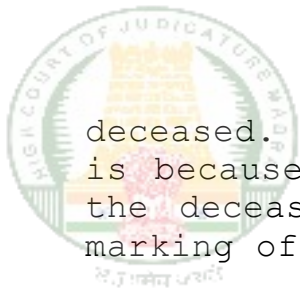
Total : **Rs.3,72,000/-**

5. The compensation payable to the claimant is enhanced from a sum of Rs.2,72,000/- to Rs.3,72,000/-. The award dated 02.09.2015 made in MCOP.No.717 of 2013 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Tirunelveli is modified. CMA (MD)No.157 of 2017 is partly allowed.

6. The claimants / brother and sister of the deceased Subburaj in MCOP.No.716 of 2013 have filed CMA (MD)No.156 of 2017 seeking enhancement of compensation awarded to them.

7. The deceased Subburaj was the rider of the said two wheeler. Even though the claimants cannot be termed as dependents of the deceased, they are very much entitled to file a claim petition. They come under the category of legal representatives. The deceased was working as a Line man in Muscat. Even though no income proof was furnished, the Tribunal took his monthly income as Rs.15,000/-. A sum of Rs.15,10,000/- was awarded in favour of the appellants herein with interest.

8. The learned counsel appearing for the appellant would contend that Ex.P27 was filed to show that the deceased was working in foreign country. They had also furnished proof to show that there was money remittance from abroad. His contention is that Rs.25,000/- should have taken as monthly income of the



deceased. I am not able to agree with the said contention. This is because admittedly no income proof was furnished to show that the deceased was earning a sum of Rs.25,000/- per month. Mere marking of the said Ex.P27 is not sufficient.

9.The Tribunal adopted the correct approach and awarded compensation. Accordingly, there is no justification in interfering the same. The award dated 02.09.2015 made in MCOP.No.716 2013 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Tirunelveli is confirmed. This appeal is without any merit. CMA(MD)No.156 of 2017 stands dismissed.

10.The second respondent insurance company is directed to deposit a sum of Rs.15,10,000/- in MCOP.No.716 of 2013 and a sum of Rs.3,72,000/- in MCOP.No.717 of 2013, with interest at the rate of 7.5% per annum from the date of petition till the date of realization with 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, and thereafter recover the paid amount from the vehicle owner as directed by the Tribunal, by filing execution petition in these very proceedings. On such deposit, the claimants in both MCOPs are entitled to withdraw the same, as apportioned by the Tribunal, by filing proper application, less the amount already withdrawn by them, if any.

11.In the result, CMA(MD)No.156 of 2017 is dismissed and CMA (MD)No.157 of 2017 is partly allowed. No costs.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

The Judge,
Motor Accident Claims Tribunal,
IV Additional District Judge, Tirunelveli

COPY TO

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

+2cc to Mr.T.Selvakumaran, Advocate sr.No.88327,88329

+1cc to Mr. A.Ilango, Advocate Sr.No.88761

+1cc to Mr.A.S.Mathialagan, Advocate Sr.No.88254

SKM

VB/MR/KKR/SAR3/27/12/2017/4P/7C

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