



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1154 of 2015

and

M.P. (MD) .No.1 of 2015

The New India Assurance Company Limited,
Through its Divisional Manager,
Jerome Buildings,
Fort Station Road,
Tiruchirappalli.

... Appellant/2nd Respondent

Vs.

1.Nagarajan

... 1st Respondent/Petitioner

2.Parveen Travels Private Limited,
No.288, Maraimalai Adigal Salai,
Muthamizh Nagar,
Puducherry.

...2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and degree dated 16.04.2015 made in M.C.O.P No.4925 of 2013 on the file of the Motor Accidents Claims Tribunal, (Special Subordinate Judge), Tiruchirappalli.

For Appellant : Mrs.P.Malini

For Respondents : Mr.N.Sudhagar Nagaraj for R1
No Appearance for R2

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this appeal challenging the award on the ground of quantum. The first respondent was riding his two-wheeler on 20.06.2011, when the accident in question occurred involving the bus belonging to the second respondent herein and insured with the appellant. The victim suffered multiple injuries including fractures. The Tribunal fixed his disability at 35% which was partial but permanent. The monthly income was fixed at Rs.4,500/- The Tribunal has awarded a sum of



Rs.3,89,500/- . Contending that the said compensation awarded is excessive, this appeal has been filed.

3.The learned counsel for the appellant contended that since functional disability has not been established on the account of this accident the Tribunal ought not to have applied the multiplier method. I find force in the said contention. Therefore the compensation payable to the claimant will have to be reworked as under:-

Sl.No	Heads	Amount in Rupees
1.	Disability compensation 35X3000	Rs.1,05,000/-
2.	For medical expenditure	Rs. 95,000/-
3.	For transportation charges	Rs. 10,000/-
4.	For extra nourishment	Rs. 10,000/-
5.	For attender charges	Rs. 5,000/-
6.	For loss of income	Rs. 50,000/-
7.	For Pain and sufferings	Rs. 25,000/-
	Total	Rs.3,00,000/-

4.The compensation awarded by the Tribunal is reduced from Rs.3,89,500/- to Rs.3,00,000/-. The award dated 16.04.2015 made in M.C.O.P No.4925 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Tiruchirappalli is accordingly modified.

5.The appellant insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with costs, 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 order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

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

Sd/-

Assistant Registrar (CS-I)

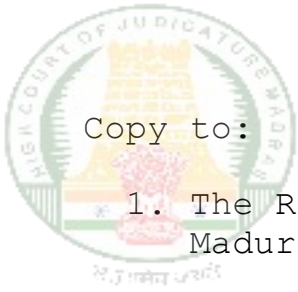
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Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

The Motor Accidents Claims Tribunal,
Special Subordinate Judge, Tiruchirappalli.



Copy to:

1. The Record Keeper,
Madurai Bench of Madras High Court, Madurai.

2. Parveen Travels Private Limited,
No.288, Maraimalai Adigal Salai,
Muthamizh Nagar,
Puducherry.

+ 1 cc TO Mrs.P.Malini , Advocate in SR No. 85127

+ 1 cc TO Mr.N.Sudhagar Nagaraj , Advocate in SR No. 85048

tsg

AE/MR KKR/SAR3/23.11.2017/3P/6C

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