



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2017

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .No.454 of 2016

and

C.M.P. (MD)No.5950 of 2016

and

C.M.A. (MD) .No. 1178 of 2016

In C.M.A. (MD) .No.454 of 2016

The Regional Manager,
National Insurance Company Limited,
No.92, Thevar Puram Road,
Tuticorin.

... Appellant/2nd Respondent

Vs.

1.Karuvela Muthu

... 1st Respondent/Petitioner

2.Murugan

... 2nd Respondent/1st Respondent

In C.M.A. (MD) .No.1178 of 2016

Karuvela Muthu

... Appellant/Petitioner

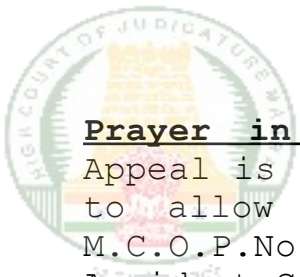
Vs.

1. Murugan

2. National Insurance Company Limited,
Through its Divisional Manager,
No.92, Thevar Puram Road,
Tuticorin.

... Respondents/Respondents

Prayer in C.M.A. (MD) .No.454 of 2016:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 06.12.2013 made in M.C.O.P.No.80 of 2013, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli.



Prayer in C.M.A. (MD) .No.1178 of 2016:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount made in M.C.O.P.No.80 of 2013, dated 06.12.2013, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli.

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In C.M.A. (MD) .No.454 of 2016

For Appellant	: Mr.S.Srinivasaragavan
For R1	: Tapal due
For R2	: Mr.T.Selvakumaran

In C.M.A. (MD) .No.1178 of 2016

For Appellant	: Mr.T.Selvakumaran
For R1	: Dispensed with
For R2	: Mr.S.Srinivasaragavan

COMMON JUDGMENT

Heard the learned counsel on either side.

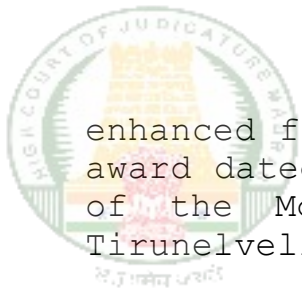
2. The claimant Karuvelamuthu, was travelling, as a pillion rider, on the Tuticorin to Tirunelveli main road, dated 19.01.2013, at about 1.00 p.m. A TATA 407 van insured with the National Insurance Company was driven in a rash and negligent manner and hit the said two wheeler. In the resulting accident, the claimant fell down and suffered serious injuries. He suffered fractures on the right leg, left hand shoulder, jaw and also on his spine. He also suffered crush injury over the stomach. He was an in-patient for more than a month. His spleen was removed. He incurred a sum of Rs.2,71,600/- towards medical expenditure alone.

3.The Tribunal taking note of all the aspects awarded a sum of Rs.10,24,400/- with interest. Contending that this is not adequate, the claimant filed C.M.A(MD).No.1178 of 2016, pointing out that though there was no functional disability, the Tribunal adopted the multiplier method. The insurer filed C.M.A.(MD). No.454 of 2016.

4.A reading of the evidence on record does indicate that this is not a case of functional disability. However, considering the nature of injuries suffered by the claimant, I am inclined to slightly enhance the compensation awarded to the claimant. A sum of Rs.50,000/- alone was given to the pain and suffering alone. I am of the view that this can be enhanced by a further sum of Rs.75,600/-. The claimant is therefore held entitled to a sum of Rs.11,00,000/- with interest.

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5.Therefore, the compensation payable to the claimant is



enhanced from Rs.10,24,400/- to Rs.11,00,000/- with interest. The award dated 06.12.2013, made in M.C.O.P.No.80 of 2013, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, is modified accordingly.

6.The second respondent/Insurance Company in C.M.A.(MD).No.1178 of 2016 is directed to deposit the compensation amount of Rs.11,00,000/- 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 judgment, less the amount already deposited, if any. On such deposit, the claimant/appellant in C.M.A.(MD).No.1178 of 2016 is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

7.C.M.A(MD).No.1178 of 2016 is partly allowed. C.M.A(MD) No.454 of 2016 is dismissed accordingly. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Special Sub Court, Tirunelveli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

Copy to:

Murugan,
S/o.Seeria Pillai Nadar,
No.306, Pudukottai Kaspas,
Kumaragiri, Tuticorin District.

+ 1 cc TO Mr.T.Selvakumaran , Advocate in SR No. 92301

+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 91841

tsg/lis

AE/SKN RSK/SAR1/18.07.2018/3P/7C

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C.M.A. (MD) .Nos.454 and 1178 of 2016
08.12.2017