

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 18.12.2017****CORAM :**

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****C.M.A. (MD) Nos.169 & 170 of 2017**

L.Seetharaman ... Appellant in C.M.A.No.169 of 2017  
S.Hariharan ... Appellant in C.M.A.No.170 of 2017

Vs.

1. K.Ganeshan  
2. United India Insurance Company Limited,  
Door No.78, Kamaraj Salai,  
Kaveri Nagar,  
Kulithalai, Karur  
Through its Branch Manager ... Respondents in both appeals

**Common Prayer:** Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to allow these appeal and enhance the award amount made in M.C.O.P.Nos.565 & 566 of 2014, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, dated 23.09.2016.

In both Appeals  
For Appellant : Mr.T.Selvakumaran  
For Respondent : Mr.B.Rajesh Saravanan for R2  
: No Appearance for R1

**COMMON JUDGMENT**

Heard the learned counsel on either side.

2.The claimants in M.C.O.P.No.565 and 566 of 2014 were travelling in an Innova car on 18.11.2013, at about 09.30 A.M., when the lorry insured with the second respondent herein coming from the opposite direction, hit the car and caused the accident in question.

2.The Claimant in M.C.O.P.No.565 of 2014, suffered multiple fractures. He was an inpatient in a hospital for more than 24 days. He incurred a sum of Rs.4,60,000/- towards medical expenses alone. The doctor assessed his disability at 62%. But the Tribunal chose to fix disability only at 40%. Aggrieved by the quantum of compensation awarded in M.C.O.P.No.565 of 2014, the claimant has filed C.M.A.(MD).No.169 of 2017.



3.The compensation payable to the claimant can be reworked as under. For pain and suffering further a sum of Rs.24,000/- can be awarded. For disability a further sum of Rs.1,86,000/- can be awarded. In all other respects, the amount awarded by the Tribunal is confirmed. The amount payable to the claimant is enhanced from Rs.6,35,196 to Rs.8,45,196/-. This can be rounded off to Rs.8,45,200/-

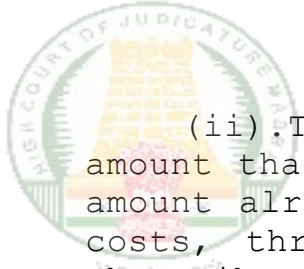
4.As regards the claimant in M.C.O.P.No.566 of 2014, it is seen that a sum of Rs.10,000/- alone was awarded towards pain and suffering. Further a sum of Rs.20,000/- can be awarded under that head. Loss of income for the treatment period has been assessed only at Rs.1,600/-. I am of the view that a further sum of Rs.4,000/- can be awarded. For attender charges a sum of Rs.7,000/- can be awarded. In all other heads the compensation awarded by the Tribunal is confirmed. Therefore the compensation payable to the said claimant is enhanced from Rs.1,73,000/- to Rs.2,00,360/-, which is rounded off to Rs.2,00,000-.

5.Therefore, the award dated made in M.C.O.P.Nos.565 & 566 of 2014, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, dated 23.09.2016 are modified accordingly.

6.In C.M.A.(MD).No.169 of 2017, the second respondent is directed to deposit the compensation amount of Rs.8,45,200/- 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 appellant/claimant 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.170 of 2017 is allowed in the following terms:-

(i).The United India Insurance Company Limited / second respondent is directed to pay the compensation amount as modified by this Court along with proportionate interest and costs from the date of petition till the date of realisation, less the amount already deposited, if any, to the credit of M.C.O.P.No.566 of 2014, dated 23.09.2016, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirunelveli, within a period of eight weeks from the date of receipt of a copy of this judgment. The appellant is directed to pay the Court fee for the enhanced amount.



(ii).The claimant/appellant is permitted to withdraw his amount that would be deposited by the Insurance Company, less the amount already withdrawn, if any, with proportionate interest and costs, through RTGS/NEFT by filing necessary Application before the Tribunal.

8.These Civil Miscellaneous Appeals are partly allowed. No costs.

Sd/-  
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

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

Copy to

K.Ganeshan  
S/o. Kaliyamoorthi,  
No.35/7, 4<sup>th</sup> Street,  
Thirumurugan Nagar,  
Musiri Post, Musiri Taluk,  
Trichy District.

+1cc to Mr. B.Rajesh Saravanan, Advocate Sr.No.93520

TAG

VB/SV/SAR4/27.07.2018/3P/6C

**C.M.A. (MD) No.169 & 170 of 2017**  
**18.12.2017**