

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 30.11.2017****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****WEB COPY****C.M.A. (MD)No.1219 of 2016**

A.Sivasubramanian

... Appellant/Claimant

Vs.

1. M/s.Shri Muthuvel Service,
No.86, Perumal Puram,
Tirunelveli.

2. IFFCO-TOKIO General Insurance Company Limited,
1st Floor, Chandra Kandhi Nagar,
Ponmeni, Bye pass Road, Madurai-652010. ... Respondents/
Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 10.12.2011, made in M.C.O.P.No.90 of 2011, on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.1, Thoothukudi.

For Appellant

: Mr.D.Selvaraj

For Respondents

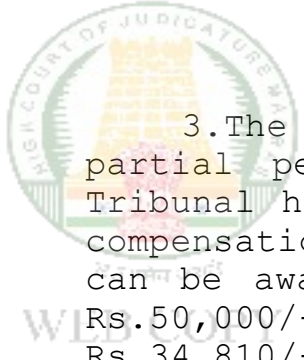
: Mr.N.Ganagasapabathy for R1

No Appearance for R2

JUDGMENT

Heard the learned counsel on either side.

2.The injured claimant has filed this appeal seeking enhancement of the compensation awarded to him. He was travelling as a passenger in the bus belonging to the first respondent and insured with the second respondent herein. The claimant could get down from the bus, the bus was started and as a result the claimant fell down from the bus and its left front wheel ran over the claimant's right leg below knee. The claimant suffered fracture and also sustained multiple grievous injuries. He was an inpatient in AVM Hospital from 07.08.2010 to 07.09.2010. He underwent a major operation and also plastic surgery. Crime No.325 of 2010 was registered on the file of the Thoothukudi Central Police Station against the bus driver. The Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the bus driver. The Tribunal awarded a sum of Rs.1,04,810/- as compensation. Contending that the same is inadequate, this appeal has been filed.



3.The claimant marked Ex.P10 to show that he had suffered partial permanent disability to the extent of 54%. But the Tribunal had awarded a sum of Rs.54,000/-alone towards disability compensation. This has to be enhanced. A sum of Rs.1,62,000/- can be awarded towards partial permanent disability. A sum of Rs.50,000/- can be awarded towards pain and suffering. A sum of Rs.34,810/- was spent towards his treatment(as per Ex.P8). For extra nourishment a sum of Rs.10,000/- can be awarded. For transportation a sum of Rs.5,000/- can be awarded.

4.The compensation awarded to the claimant is enhanced from Rs.1,04,810/- to Rs.2,61,810/-. The award dated 10.12.2011, made in M.C.O.P.No.90 of 2011, on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.1, Thoothukudi. is modified accordingly.

5.The 2nd respondent is directed to deposit the compensation amount of Rs.2,61,810/- 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.This Civil Miscellaneous Appeal stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Judge, Fast Track Court No.1,
The Motor Accident Claims Tribunal, Thoothukudi.

2. The Record Keeper(Two copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Selvaraj, Advocate Sr.No.90456

+1cc to Mr.N.Ganagasapabathy , Advocate Sr.No.90589

TSG

VB/KK/SAR3/31.01.2018/2P/6c

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