



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD).No.1237 of 2016

S.Dharmaraj

... Appellant/Petitioner

Vs.

1.C.Velayutham

2.The New India Assurance Company Limited,
Through its Branch Manager,
No.43-A/2, Juman Centre,
Prominate Road, Cantonment,
Trichy - 1.

... Respondents/Respondents

Prayer:- This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.323 of 2010 on the file of the Motor Accident Claims Tribunal, (Sub Judge), Kulithalai, dated 22.07.2013.

For Appellant	: Mr.T.Selvakumaran
For R1	: Exparte
For R2	: Mr.S.Natarajan

JUDGMENT

Heard the learned counsel on either side.

2.The injured claimant has filed this appeal seeking enhancement of the compensation awarded to him.

3.On 21.07.2010, the claimant was riding his two wheeler, a share auto insured with the second respondent herein was driven in a rash and negligent manner and hit him. In the resulting accident, the claimant suffered injury in his right leg. He was an inpatient in the hospital for a period of six days. On account of the said fracture, there was a shortening by 3 c.m. Considering this aspect, the disability of the claimant was assessed as 55%. But the Tribunal awarded only a sum of Rs.1,10,000/- towards disability compensation.

4.I am of the view that a sum of Rs.3,000/- in this case per percentage of disability can be awarded. Therefore, the compensation payable to the claimant will have to be enhanced by a further sum of Rs.55,000/- towards disability and Rs.5,000/- towards loss of amenities. The compensation payable to the claimant will have to be enhanced from Rs.1,52,530/- to Rs.2,12,530/-.



5. Therefore, the award dated 22.07.2013, made in M.C.O.P.No.323 of 2010, on the file of the Motor Accident Claims Tribunal, (Sub Judge), Kulithalai, is modified accordingly.

6. The second respondent is directed to deposit the compensation amount of Rs.2,12,530/- with interest at the rate of 7.5% per annum with 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 On such deposit, the appellant/claimant is entitled to withdraw the entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

7. This Civil Miscellaneous Appeal is partly allowed accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Sub Judge,
Motor Accident Claims Tribunal,
Kulithalai.

Copy to

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

+1CC to Mr.S.Natarajan Advocate in SR.No.91753.

+1CC to Mr.T.Selvakumaran Advocate in SR.No.92304.

TSG/LS

DS/SB/SAR-1 : 13.07.2018: 2P/6C

C.M.A. (MD) .No.1237 of 2016
08.12.2017