



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.147 of 2016

G.Ravi

... Appellant/Petitioner

Vs.

1. G.K.Earth Movers

2. I.C.I.C.I. Lombard General Insurance Company Limited,
1st Floor, United Arcade,
Karur By-Pass Road,
Tiruchuiraplli.

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and enhance the award passed in M.C.O.P.No.160 of 2008 on the file of the III Additional Sub Court/Motor Accident Claims Tribunal, Trichirappalli, dated 15.04.2013.

For Appellant : Mr.N.Sudhagar Nagaraj
For Respondents : Mr.K.K.Ramakrishnan for R2

JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this appeal seeking enhancement. He met with an accident involving the excavator which was insured with the second respondent herein. The claimant had suffered amputation in his right leg. The doctor assessed disability at 75%. The Tribunal has adopted multiplier method by taking his monthly income at Rs.3,500/- and awarded a sum of Rs.11,83,494/-.

3.The learned counsel appearing for the appellant would submit that the fixation of monthly income is not correct. He placed reliance on the decision of the Hon'ble Supreme Court reported in **2014 (1) TN MAC 459 (SC) Syed Sadiq Vs.Divisional Manager, United India Insurance Company Limited.** On the other hand, the learned counsel appearing for the second respondent would submit that this is not a case of claimant having suffered functional disability. He was running quarry business. In fact, the accident itself



occurred in his own land involving the vehicle hired by him.

4. Be that as it may, it is nevertheless an accident caused by the vehicle insured with the second respondent. Since the claimant cannot be said to have suffered functional disability, the Tribunal erred in adopting the multiplier method. The compensation payable to the claimant will have to be reworked as under:-

Sl.No.	Heads	Amounts
1.	For loss of income	Rs. 1,00,000/-
2.	For disability	Rs. 2,25,000/-
3.	For medical expenditure (incurred and future)	Rs. 8,00,000/-
4.	For Pain and suffering	Rs. 1,50,000/-
5.	For loss of amenities	Rs. 1,50,000/-
6.	For attender charges	Rs. 1,00,000/-
7.	For extra nourishment	Rs. 1,00,000/-
	Total	Rs. 16,25,000/-

5. Therefore the compensation payable to the claimant will have to be enhanced from Rs.11,83,494/- to Rs.16,25,000/-. The award dated 15.04.2013 made in M.C.O.P.No.160 of 2008 on the file of the III Additional Sub Court/Motor Accident Claims Tribunal, Trichirappalli is modified accordingly.

6. The 2nd respondent is directed to deposit the entire compensation amount of Rs.16,25,000/- 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 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.

7. This Civil Miscellaneous Appeal stands partly allowed. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/



1. The III Additional Subordinate Judge,
The Motor Accidents Claims Tribunal,
Trichirappalli.

2. G.K.Earth Movers,
Shanmuga Building,
Salem Main Road,
Sangakiri, Salem.

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

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 86172

+ 1 CC TO Mr.K.K.RAMAKRISHNAN, ADVOCATE IN SR No. 86209

TSG

TE/RP/SAR-1 : 13/08/2018 : 3P/7C

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