



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.12.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

CMA(MD)No.148 of 2016

Paulraj

... Appellant/Petitioner

Vs.

1.T.Dharmaraj

2.The Divisional Manager,
The Oriental Insurance Co. Ltd,
Virudhunagar.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.11.2015 made in MCOP.No.43 of 2013 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Virudhunagar.

For Appellant	: Mrs.K.R.Shivashankari for Mr.S.Srinivasa Raghavan
For Respondents	: Mr.B.Chiristopher for R1 Mr.C.Jawahar Ravindran for R2

JUDGMENT

Heard the learned counsel for the parties.

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

3.The claimant was walking on the Thiruvattar - Marthandam road on 17.03.2012 at about 07.00 P.M., when a two wheeler belonging to the first respondent and insured with the second respondent dashed against him from behind. The claimant fell down and suffered injuries. In particular, he suffered fracture not only in the leg but also in the hip. It is seen from the evidence on record that the claimant took treatment both for his fracture in the limb as well as the fracture in the occipital bone on the left side. The C.T scan reports have also been marked as Exs.P2, P3, P5, P9 and P10. But, the Tribunal has awarded a sum of Rs.1,87,000/- alone.

4.I am clearly of the view that the said sum is awfully inadequate and it has to be enhanced. PW.2 the doctor, who treated the claimant was examined. The disability suffered by the claimant was assessed at 60%. Considering the nature of injuries suffered by the claimant, the compensation payable to the claimant can be reworked as under.

Heads	Amount in Rupees
For disability (60%x3000)	Rs.1,80,000/-
For medical expenses	Rs.1,20,000/-
Pain and sufferings	Rs.1,00,000/-
Extra nourishment	Rs. 13,000/-
Damages to clothes and Articles	Rs. 24,000/-
Loss of income	Rs. 15,000/-
Total	Rs.4,52,000/-

5.The compensation payable to the claimant is enhanced from Rs.1,87,000/- to Rs.4,52,000/-. The award dated 26.11.2015 made in MCOP.No.43 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Virudhunagar is modified.

6.The second respondent insurance company is directed to deposit the sum of Rs.4,52,000/- compensation amount with interest at the rate of 7.5% per annum 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, by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

7.This appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accident Claims Tribunal,
Virudhunagar.

COPY TO:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.S.Srinivasa Raghavan, Advocate SR.No. 91029

+1cc to M/S.C.Jawahar Ravindran, Advocate SR.No. 90910

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