



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.151 to 154 of 2015

1.Maria Pratheep Raj	... Appellant in CMA(MD)No.151 of 2015
2.Mary Stephy	... Appellant in CMA(MD)No.152 of 2015
3.Antony Jenson	... Appellant in CMA(MD)No.153 of 2015
4.Sahaya Pratheesha Mary	... Appellant in CMA(MD)No.154 of 2015

Vs.

1.Mohan	
2.United India Insurance Company Limited, through its Branch Manager, Office at Xavier Building, II Floor, PWD Road, Nagercoil.	... Respondents in all CMAs

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 29.04.2014 made in MCOP.Nos.958 to 961 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Tirunelveli.

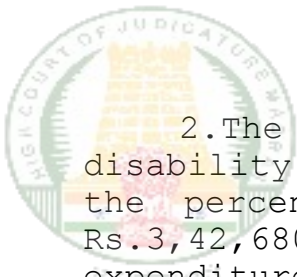
For Appellants
in all CMAs : Mr.T.Selvakumaran

For Respondents
in all CMAs : Mr.G.Prabhu Rajadurai for R2

R1 dispensed with.
COMMON JUDGMENT

CMA(MD)No.151 of 2015 :

The claimant in MCOP.No.958 of 2013 has filed CMA(MD)No.151 of 2015 seeking enhancement of compensation for the injuries suffered by him.



2.The disability was assessed at 52%. Even though the disability percentage was assessed at 52%, the Tribunal has taken the percentage of disability at 45%. It awarded a sum of Rs.3,42,680/- as total compensation. The claimant incurred medical expenditure alone to the tune of Rs.1.00 lakh. The monthly income of the claimant was taken as Rs.4,500/-. The accident took place in the year 2013. The claimant is a Fisher Man by avocation.

3.I am of the view that the monthly income should be taken as Rs.6,500/-. Since the claimant was out of employment for six months, a sum of Rs.39,000/- can be awarded towards loss of income. A sum of Rs.50,000/- can be awarded towards pain and sufferings. For loss of amenities Rs.40,000/- can be awarded. The compensation awarded under other heads are confirmed. Therefore, the compensation payable to the claimant is enhanced by a further sum of Rs.42,000/-. Thus, the total compensation payable to the claimant would come to Rs.3,84,680/-.

CMA(MD)No.152 of 2015 :

The claimant in MCOP.No.959 of 2013 has filed CMA(MD)No.152 of 2015 seeking enhancement of compensation. He has suffered injury in the hip. The Tribunal awarded a sum of Rs.2,81,440/-.

2.The learned counsel for the claimant submits that no amount was awarded for future medical expenses. Therefore, a sum of Rs.30,000/- can be awarded towards future medical expenses. For loss of income, a sum of Rs.6,000/- has to be awarded more. For pain and sufferings, a sum of Rs.35,000/- can be awarded more. For loss of amenities, a sum of Rs.25,000/- can be awarded more. Therefore, the compensation payable to the claimant is enhanced by a further sum of Rs.96,000/-. The compensation awarded under other heads are confirmed. Thus, the total compensation payable to the claimant would come to Rs.3,77,440/-.

CMA(MD)No.153 of 2015 :

The claimant in MCOP.No.960 of 2013 has filed CMA(MD)No.153 of 2015 seeking enhancement of compensation. He suffered fracture in the left hand. The Tribunal has awarded a sum of Rs.3,89,380/- as compensation.

2.The Tribunal has taken monthly income of the claimant at Rs.4,500/-. The compensation awarded to the claimant is not adequate. Therefore, the compensation payable to the claimant will have to be enhanced as follows :

3.A sum of Rs.6,000/- can be awarded more towards loss of income. For pain and sufferings, a sum of Rs.50,000/- can be awarded more. For loss of amenities, a sum of Rs.20,000/- can be awarded more. Therefore, the compensation payable to the claimant is enhanced by a further sum of Rs.76,000/-. Thus, the total compensation payable to the claimant would come to Rs.4,65,380/-.

CMA(MD)No.154 of 2015 :

The claimant in MCOP.No.961 of 2013 is a student. He has also filed CMA(MD)No.154 of 2015 seeking enhancement of compensation. He suffered fracture in the jaw. The Tribunal has awarded a sum of Rs.2,55,690/- as compensation.

2.The Tribunal ought to have awarded a sum of Rs.40,000/- towards pain and sufferings and a sum of Rs.35,000/- towards loss of amenities. Therefore, he is entitled by a further sum of Rs.40,000/- over and above what was awarded to him. Therefore, the total compensation payable to the claimant would come to Rs.2,95,690/-.

3.The compensation payable to the claimants in all the appeals is enhanced as indicated above. The award 29.04.2014 made in MCOP.Nos.958 to 961 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Tirunelveli is accordingly modified.

4.The second respondent insurance company is directed to deposit the entire compensation amount as mentioned above in the respective claims, with interest at the rate of 7.5% per annum from the date petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order. On such deposits being made, the claimants are permitted to withdraw the same, by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

6.These Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To
The Special Subordinate Judge,
The Motor Accidents Claims Tribunal, Tirunelveli.

Copy to:- The Record Keeper,

Madurai Bench of Madras High Court, Madurai.

+3ccs to Mr.T.Selvakumaran, Advocate, SR.Nos.87526,87525 and 87524
+4ccs to Mr.G.Prabhu Rajadurai, Advocate, SR.Nos.87321,87320, 87322
and 87323

skm

RL/10C/3p/SKN/RSK/SAR1/14/12/2017

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