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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.01.2017**

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. (MD) No.65 of 2017

Veeraiyan : Appellant/Claimant
vs.

1.Vairamudi

2.The Branch Manager,
United India Insurance Company Ltd.,
42, Mutt Street, I Floor,
Kumbakonam Cusba & Taluk,
Thanjavur District. : Respondents/Respondents
(R1 Set to Exparte before the Tribunal)

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.04.2016, made in M.C.O.P.No.195 of 2013 on the file of the Motor Accident Claims Tribunal/III-Additional District and Sessions Judge, Thanjavur at Pattukottai.

For Appellants : Ms.M.Viji for Mr.S.Deenadhayalan
For Respondent No.1 : Exparte dispense with
For Respondent No.2 : Mr.A.S.Mathialagan

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 23.04.2016, made in M.C.O.P.No.195 of 2013, on the file of the Motor Accident Claims Tribunal / III Additional District and Sessions Judge, Thanjavur at Pattukottai.

2. This appeal has been preferred by the injured, against the award of Rs.1,07,500/- for the injuries sustained by him in the accident occurred on 07.04.2013.

3. Heard Ms. M. Viji, learned counsel appearing for the appellant and Mr.A.S.Mathialagan, learned counsel appearing for second respondent, Insurance Company.

4. Aggrieved over the quantum of compensation, the claimant / appellant is before this Court. The appellant / claimant sustained injuries in the accident viz., fracture of bone in the right leg and he was admitted in the Government Hospital for 91 days from 07.04.2013 to 8.07.2013. Apart from fracture, the bone also got smashed as proved by PW.2 Doctor's evidence. Because of the



injuries, there is no movement in the right leg joined and he is unable to walk ordinarily and he is limping.

5. In view of the PW2 Doctor's evidence, determined the partial permanent disability as 45% and 20% permanent disability. The Tribunal awarded a sum of Rs.67,500/- (Rs.1,500/- each percentage) towards partial permanent disability and Rs.40,000/- (Rs.2,000/- each disability) towards permanent disability. Instead of clubbing both the disabilities, it is appropriate to determine the higher disability for awarding the compensation. Therefore, for 45% is determined and Rs.3,000/- is awarded for each percentage. Accordingly, a sum of **Rs.1,35,000/-** is hereby awarded for disability. The Tribunal did not award any amount other than for disability therefore, a sum of **Rs.25,000/-** is awarded towards pain and suffering; **Rs.30,000/-** towards loss of income during treatment; **Rs.15,000/-** towards extra nourishment; **Rs.10,000/-** towards transportation and **Rs.20,000/-** towards loss of amenities is hereby awarded. Thus the award of Rs.1,07,500/- enhanced to Rs.2,35,000/- along with interest at 7.5% per annum.

6. In the result,

(i) This Civil Miscellaneous Appeal is allowed, however, enhancing the award amount from Rs.1,07,500/- to **Rs.2,35,000/-** (Rupees Two Lakhs and Thirty Five Thousand only) along with interest at the rate of **7.5%** per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent / Insurance Company is directed to deposit the entire award amount to the credit of MCOP.No.195 of 2013, by the Motor Accident Claims Tribunal - cum - III Additional District and Sessions Court, Thanjavur at Pattukkottai, along with accrued interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment;

(iii) On such deposit, the Tribunal is directed to transfer the same directly to his Personal Savings Bank Account Numbers, through RTGS/NEFT system, after getting his Account Details within a period of **two weeks thereafter**;

(iv) In the facts and circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Additional District and Sessions Judge,
Motor Accident Claims Tribunal-III,
Thanjavur at Pattukkottai.



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

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+1cc to Mr.A.S.MATHIALAGAN Advocate in SR. NO.4035

TRP/PGP

JS/MR.KKR/SAR.1/22.08.2017/3P-4C

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