



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.653 and 654 of 2017

and

C.M.P. (MD) Nos.6817 & 6818 of 2017

Joint Director of Medical Rural Health Services
and Family Welfare,
Virudhunagar,
Virudhunagar District.

... Appellant/Respondent
in both appeals

Vs.

P.Muthupandi

... Respondent/Petitioner
in C.M.A.No.653 of 2017

S.Kalidass

... Respondent/Petitioner
in C.M.A.No.654 of 2017

Common Prayer: These Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the Judgment and Decree dated 21.12.2015 made in M.C.O.P.Nos.421 and 422 of 2014, on the file of the Subordinate Judge (Motor Accident Claims Tribunal), Madurai.

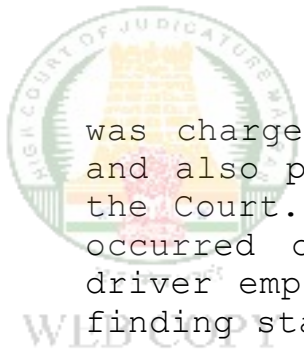
For Both Appeals

For Appellant	: Mr.A.K.Baskarapandian Special Government Pleader
For Respondent	: Mr.V.Sakthivel for Caveator

COMMON JUDGMENT

Heard the learned counsel on either side.

2.These appeals have been filed both on the ground of negligence as well as quantum. The claimants were riding two wheeler. The respondent in C.M.A.(MD)No.653 of 2017 was the rider and the respondent in C.M.A.(MD).No.654 of 2017 was the pillion rider. The Innova car belonging to the appellant department dashed against the two-wheeler and caused the injuries. The driver of the Innova car was shown as the accused in the FIR. He



was charge sheeted. He pleaded guilty before the Criminal Court and also paid the fine. He was not examined as a witness before the Court. Therefore the Tribunal rightly held that the accident occurred on account of the rash and negligent driving of the driver employed by the appellant department. Therefore, the said finding stands confirmed.

3.As regards quantum, it is seen that the claimant in M.C.O.P.No.421 of 2014 suffered injuries in the middle finger, left ankle and his scrotum. But the doctor PW3 has given a Disability certificate which was assessed at 30%. Admittedly, the doctor who issued the certificate did not treat the claimant. Therefore, this Court will have to necessarily have a re-look at the certificate. The said Certificate can be accepted only to the extent of 8% in so far as it pertains to scrotum injury. Similarly there is nothing on record to show that the claimant was out of employment for four months. Hence the compensation payable to the claimant will have to be re-worked as under:-

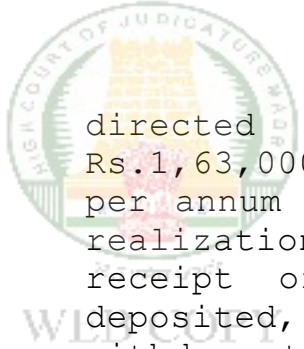
Sl.No.	Heads	Amounts in Rupees
1.	For pain and suffering	Rs. 40,000/-
2.	For transport expenses	Rs. 1,000/-
3.	For extra nourishment	Rs. 5,000/-
4.	For damages to articles	Rs. 2,000/-
5.	For medical expenses	Rs. 70,000/-
6.	For loss of amenities	Rs. 10,000/-
7.	For disability	Rs. 25,000/-
8.	For loss of income	Rs. 10,000/-
	Total	Rs.1,63,000/-

4.The claimant in M.C.O.P.No.422 of 2014 had suffered fractures in the left femur and also in the spinal card. Considering the nature of the injuries suffered by him, the Tribunal has awarded a sum of Rs.3,09,200/-. It does not call for any interference. The Tribunal has correctly fixed the compensation payable to the said claimant. C.M.A.(MD).No.654 of 2017 is dismissed accordingly.

5.Therefore, the award dated 21.12.2015 made in M.C.O.P.No.421 of 2014 on the file of the Subordinate Judge (Motor Accident Claims Tribunal), Madurai is modified accordingly and M.C.O.P.No.422 of 2014, dated 21.12.2015, on the file of the Subordinate Judge (Motor Accident Claims Tribunal), Madurai, is confirmed accordingly.

<https://hcservices.ecourts.gov.in/hcservices/>

6.The appellant in C.M.A.(MD).Nos.653 and 654 of 2017 is



directed to deposit the entire compensation amount of Rs.1,63,000/- and Rs.3,09,200/- 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 claimants are entitled to withdraw the same, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

7.C.M.A.(MD).No.653 of 2017 is partly allowed. C.M.A.(MD).No.654 of 2017 is dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge
(The Motor Accident Claims Tribunal), Madurai.

+ 1 cc TO Mr.V.Sakthivel , Advocate in SR No. 86675, 86676
+ 1 cc TO The Special Government Pleader in SR No. 87197

tsg/psd

AE/SKN RSK/SAR1/20.12.2017/3P/5C

C.M.A. (MD) Nos. 653 and 654 of 2017
13.11.2017