



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.659 of 2017

and

C.M.P(MD) .No.6833 of 2017

The National Insurance Company Limited,
K.R.T.Buildings,
Cantonment,
Trichy.

... Appellant / Respondent No.2

Vs

1.K.Periyannan
2.P.Ganesan

... Respondent No.1 / Petitioner
... Respondent No.2 /Respondent No.1

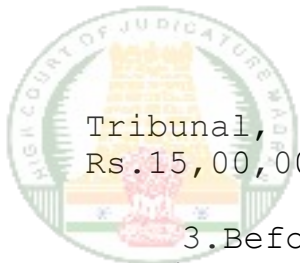
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Order and decree in M.C.O.P.No.300 of 2014 dated 17.02.2016 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Kulithalai.

For Appellant	: Mr.D.Sivaraman
For Respondents	: Mr.N.Sudhakar Nagaraj
	for R1
	:No appearance
	for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the judgment and decree in M.C.O.P.No.300 of 2014, dated 17.02.2016, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Kulithalai.

2. It is a case of injury in the accident occurred on 09.08.2014 at about 06.30 p.m. When the injured claimant was riding his Hero Honda Motor Cycle bearing Registration No.TN-47-A-3869 towards Kanakkapillaiyur, a lorry bearing Registration No.T.N.47-V-8017 belonging to the first respondent, which was insured with the second respondent-Insurance Company, came in a rash and negligent manner and dashed against the motorcycle. Due to the said impact, the injured claimant sustained grievous injuries all over the body. At the time of accident, the injured claimant was aged about 22 years and he was earning a sum of Rs.25,000/- per month by doing stone breaking work. Hence, he filed an application in M.C.O.P.No.300 of 2014 on the file of the Motor Accidents Claims



Tribunal, Subordinate Court, Kulithalai seeking a sum of Rs.15,00,000/- as compensation.

3. Before the Tribunal, the respondents 1 to 2/Claimants examined three witnesses as P.Ws.1 to 3 and marked eighteen documents as Ex.P.1 to Ex.P.18. On the side of the appellant, the Investigation Officer was examined as R.W.1 to R.W.3 and the Investigation Report was marked as Ex.R.1 to Ex.R.7.

4. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the lorry and directed the appellant/Insurance Company to pay a sum of Rs.22,59,300/-, as compensation.

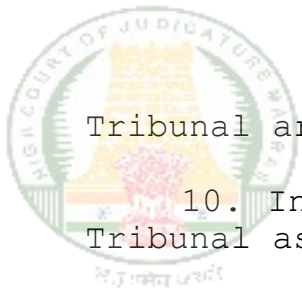
5. Against which, the appellant/Insurance Company has filed this present appeal only on the ground of quantum of compensation.

6. The learned Counsel for the appellant/Insurance Company would contend that the Tribunal, while awarding loss of income, has taken 50% of the monthly income for future prospects and arrived at loss of income at Rs.16,52,400/-. In addition to that, the Tribunal awarded a sum of Rs.1,00,000/- for permanent disability, which is an error in the eye of law. Hence, that amount has to be deleted. Further the award amount under other heads are also very high, which warrants interference at the hands of this Court.

7. The learned Counsel for the first respondent/claimant would submit that based on the oral and documentary evidences alone, the Tribunal has come to the correct conclusion and arrived at just and proper compensation and hence, he prays that there is no need for interference of this Court in the award passed by the Tribunal.

8 Heard the learned counsel appearing on both sides and perused the materials available on record.

9. A perusal of the award passed by the Tribunal it is clearly evident that while awarding compensation for loss of income to the injured claimant, the Tribunal has also awarded compensation for disability, which is not correct. Hence, this Court is of the considered view that the amount awarded under the head for permanent disability has to be deleted. Insofar as the pain and sufferings is concerned, due to the sufferings of 85% disability, the injured claimant should have suffered more pain and hence, this Court is of the considered view that the amount awarded under this heading is not enough and therefore, this Court is inclined to increase the same from Rs.50,000/- to Rs.1,00,000/-. Furthermore, considering the period of treatment taken by the injured claimant, the amount awarded for attendant charges is also increased from Rs.10,000/- to Rs.25,000/-. The amounts awarded under the other heads by the



Tribunal are hereby confirmed.

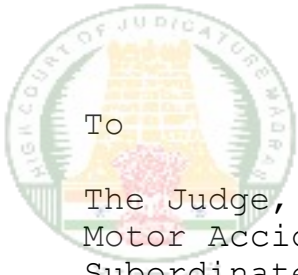
10. In view of the above, this Court modifies the award of the Tribunal as under:

S.No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted or deleted
1	For loss of income	16,52,400	16,52,400	confirmed
2	For Hospital bills	2,30,000	2,30,000	confirmed
3	For medical expenses	1,12,000	1,12,000	confirmed
4	For Medical expenses	14,900	14,900	confirmed
5	For pain and sufferings	50,000	1,00,000	enhanced
6	For permanent disability	1,00,000	--	deleted
7	For extra nourishment	20,000	20,000	confirmed
8	For transportation charges	20,000	20,000	confirmed
9	For attendant charges	10,000	25,000	enhanced
10	For loss of marriage expectation	50,000	50,000	confirmed
	Total	22,59,300	22,24,300	By reducing a sum of Rs.35,000

11. In the result, this Civil Miscellaneous Appeal is partly allowed by reducing the compensation from Rs.22,59,000/- to Rs.22,24,300/-, dated 17.02.2016, passed in M.C.O.P.No.300 of 2014, by the Additional Motor Accident Claims Tribunal, Subordinate Court, Kulithalai. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimant is permitted to withdraw the entire award amount, with accrued interests and costs without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)



To

The Judge,
Motor Accidents Claims Tribunal,
Subordinate Court, Kulithalai.

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Copy to:

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

+1cc to Mr.N.SUDHAGAR NAGARAJ Advocate in SR. No. 75396

+1cc to Mr.D.SIVARAMAN Advocate in SR. No. 75015

SSL

JS/SKN.RSK/SAR.1/4.10.2017/4P-5C

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