



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.281 of 2015

Mathialagan

... Appellant/Claimant

Vs.

1.Dr.M.Balasundaram

2.M/s.ICICI Lombard General  
Insurance Co. Ltd,  
No.5, United Arcot, 3<sup>rd</sup> Floor,  
Annamalai Nagar, Tirichirappalli.

3.M.Prabamaran

4.IFFCO TOKYO General Insurance Co. Ltd,  
TULSI Chamber, 3<sup>rd</sup> Floor,  
195, T.V.Swamy Road,  
West R.S.Puram, Coimbatore.

5.Thiraviyaselvam

6.The Divisional Manager,  
New India Assurance Co. Ltd,  
Market Road, Thanjavur.

... Respondents

(R1 & R5 set exparte before the  
Tribunal hence, notice may be given up  
against R1 & R5)

**Prayer:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 23.07.2013 made in MCOP.No.91 of 2012 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge, Special Court for E.C Act Cases, Thanjavur.

For Appellant

: Mr.S.Deenadhayalan

For Respondents

: Mr.K.K.Ramakrishnan for R2

Mr.S.Srinivasa Raghavan for R4

Mr.R.Suresh Kumar for R6

R3 No appearance. R1&R5 exparte.

**JUDGMENT**

The claimant has filed this appeal seeking enhancement of compensation awarded to him by order dated 23.07.2013 made in MCOP.No.91 of 2012 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge, Special Court for E.C Act Cases, Thanjavur.

2.The claimant has suffered injuries and the disability was assessed at 42%. But, the Tribunal awarded only a sum of Rs.42,000/- towards disability compensation. The damages awarded under other heads are also not adequate. Therefore, the compensation payable to the claimant is re-worked as under :

|                         |                 |
|-------------------------|-----------------|
| Disability compensation | : Rs.1,26,000/- |
| Leave on loss of pay    | : Rs.1,15,000/- |
| Pain and sufferings     | : Rs. 66,000/-  |
| Medical expenditure     | : Rs. 38,000/-  |
| Loss of amenities       | : Rs. 25,000/-  |
| Transportation charges  | : Rs. 15,000/-  |
| Attendar charges        | : Rs. 15,000/-  |
|                         | -----           |
| Total                   | : Rs.4,00,000/- |
|                         | -----           |

3.The compensation payable to the claimant is enhanced from a sum of Rs.2,20,000/- to Rs.4,00,000/-. The dated 23.07.2013 made in MCOP.No.91 of 2012 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge, Special Court for E.C Act Cases, Thanjavur is modified.

4.The respondents 1 and 2 are directed to deposit 2/3<sup>rd</sup> share of the compensation amount and the respondents 3 and 4 are directed to deposit 1/3<sup>rd</sup> share of the compensation amount with proportionate 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, less the amount already deposited, if any. On such deposit being made, the claimant is permitted to withdraw the same, by filing proper application, before the Tribunal, less the amount already withdrawn by him, if any.

5.This Civil Miscellaneous Appeal is allowed. No costs.

sd/-

Assistant Registrar (CS-III)

/True copy/



To

The Motor Accidents Claims Tribunal /  
Additional District and Sessions Judge /  
Special Court for E.C Act Cases, Thanjavur.

**Copy to:**

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

+1 CC to Mr.R.SURESHKUMAR, Advocate SR.No.87432  
+1 CC to Mr.S.DEENADHAYALAN, Advocate SR.No.87672  
+1 CC to Mr.K.K.RAMAKRISHNAN, Advocate SR.No.87908  
+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate SR.No.87867

**C.M.A. (MD) No.281 of 2015**  
**15.11.2017**

**skm**

**SH/PN/SAR-4:29.12.2017:3P/7C**