



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.M.A. (MD) No.286 of 2015

Jothimani

... Appellant/Claimant

Vs.

1.M/s.Sri Sai Fireworks Industries,  
4/8/30, Gopuram Colony, Anaiyoor, Sivakasi Taluk,  
Virudhunagar District.

2.The Branch Manager, M/s.New India Assurance Co. Ltd,  
South Car Street, Sivakasi - 626 123,  
Virudhunagar District. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the decree and judgment dated 28.01.2014 made in M.C.O.P.Nos.37 of 2013 passed by the Motor Vehicle Accident Claims Tribunal and Sub Court, Aruppukottai.

|                 |                                                    |
|-----------------|----------------------------------------------------|
| For Appellant   | : Mr.G.Marimuthu                                   |
| For Respondents | : Mr.C.Murugavelu for R1<br>Mr.D.Malaichamy for R2 |

#### JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation awarded in MCOP.No.37 of 2013, dated 28.01.2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Aruppukottai. It is a case of injury. The vehicle involved in the accident was insured with the second respondent herein. Crime No.924/2012 was registered on the file of Aruppukottai Town Police Station. The driver of the offending vehicle admitted the guilt and paid the fine amount also. The appellant herein suffered fracture in the right hand elbow. The percentage of disability was assessed at 48%. But the Court below awarded only a sum of Rs.1,54,616/-.

2.I am of the view that the Trial Court ought to have awarded a sum of Rs.3,000/- instead of Rs.2,000/- per percentage of disability. Therefore, the compensation awarded under the head disability should have been  $\text{Rs.3,000/-} \times 48 = \text{Rs.1,44,000/-}$ . A sum of Rs.10,000/- can be given towards loss of amenities. Damages awarded under other heads are confirmed. Therefore, the compensation awarded by the tribunal is enhanced by further sum of Rs.58,000/-. The second respondent is directed to deposit the said amount within



twelve weeks from the date of receipt of a copy of this order together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. On such deposit being made, the appellant / claimant is at liberty to withdraw the same.

3. This Civil Miscellaneous Appeal is allowed accordingly. No costs.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Subordinate Judge,  
Motor Vehicle Accident Claims Tribunal ,  
Aruppukottai.

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

+One cc to Mr. M. Jothi Basu, Advocate, SR.No.82446

+One cc to Mr. D. Malaichamy, Advocate, SR.No.82371

skm

RL/5C/2P/MR/KKR/SAR1/22/11/2017

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