



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.307 of 2015

V.Mariappan

... Appellant

Vs.

1. V.Balasubramanian

2. United India Insurance Co. Ltd,
Branch Office, Madurai - 625 009.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree order made in MCOP.No.68 of 2011, dated 10.01.2014 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Tirunelveli.

For Appellant : Mr.A.Anandan

For Respondents : Mr.J.S.Murali for R2

No appearance for R1

JUDGMENT

Heard the learned counsel for the parties.

2.The claimant has filed this Civil Miscellaneous Appeal contending that quantum of compensation awarded to him is not sufficient.

3.The claimant was travelling in a two wheeler when TATA Ace van insured with the second respondent insurance company dashed against him. The accident took place on 08.04.2009. The claimant was an inpatient from 08.04.2009 to 26.04.2009. The claimant had suffered injury on the back of his head. The doctor who was examined as PW.2 has given a disability certificate Ex.P28, certifying that the claimant has suffered 62.5% partial and permanent disability. The Tribunal has awarded a sum of Rs.3,73,022/- as compensation.

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

4.The claimant was working as a Crane operator. Considering

the nature of the injuries suffered by him, he is not in a position to continue to work as Crane operator. The injuries suffered by him have neural implications. Therefore, he cannot work as Crane operator. But, we cannot come to a conclusion that the disability sustained by him would affect his avocation. Therefore, the multiplier method cannot be adopted in this case.

5.However, considering the nature of the injuries suffered by him, the compensation payable to the claimant will have to be re worked as under :

Sl.No.	Heads	Amount in Rs.
1.	For partial permanent disability	Rs.1,87,500/-
2.	For Transportation	Rs.17,500/-
3.	For pain and sufferings	Rs.1,00,000/-
4.	For medical expenditure and future medical expenses	Rs.1,25,000/-
5.	Loss of income	Rs.45,000/-
	Total	Rs.4,75,000/-

6.The Tribunal has already applied pay and recover principle. No interference is called for on the same. In other aspects, the award passed by the Tribunal is confirmed. The award dated 10.01.2014 made in MCOP.No.68 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Tirunelveli is modified. The compensation payable to the claimant is enhanced from Rs.3,73,022/- to Rs.4,75,000/-.

7.The second respondent insurance company is directed to deposit the entire compensation amount 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 claimant / appellant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

8.This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1. The Motor Accidents Claims Tribunal,
Additional Sub Court, Tirunelveli

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

3. Mr. V. Balasubramanian,
Door No. 32/2, N.M.R.S. Puram,
Madurai.

+ 1 cc TO Mr. J. S. Murali , Advocate in SR No. 84312

+ 1 cc TO Mr. A. Anandan , Advocate in SR No. 84443

skm

AE/MR KKR/SAR1/12.12.2017/3P/6C

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