



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.10.2017

CORAM :

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 309 of 2015

R. Anandan

... Appellant/Petitioner

Vs.

1. R. Vadivel

2. The Branch Manager,
The Oriental Insurance Company Ltd,
Trichy.
(1st Respondent was set ex parte
before Tribunal. Hence may be
dispensed with the 1st Respondent.)

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 10.01.2014 made in MCOP.No.64 of 2010 on the file of learned Motor Accidents Claims Tribunal, Sub-Court, Kulithalai.

For Appellant : Mr.N.Sudhagar Nagaraj
For Respondents : Mr.K.Bhaskaran for R2
R1- Ex-parte

JUDGMENT

Aggrieved by the inadequate compensation awarded by the Tribunal, the claimant has filed this Civil Miscellaneous Appeal seeking enhancement.

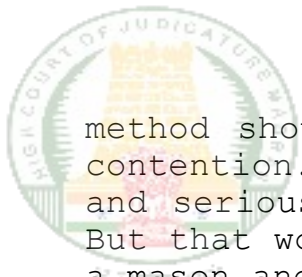
2. The claimant was injured in an accident on 29.11.2009 on account of the rash and negligent driving of the vehicle belonging to the first respondent which was insured with the second respondent. The claimant was awarded a sum of Rs.2,92,000/- with interest.

3. Heard the learned counsel for both parties.

4. The claimant was a Mason who was aged about 42 years. He was also a self employed manual worker. He suffered a severe fracture and crush injury on his left leg. He was an inpatient for 23 days. Surgery was conducted three times. The left leg was shortened by 4 cms due to the accident which is established by the evidence of PW.2 doctor. Disability has been assessed at 58%.

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

5. The learned counsel for the claimant would contend that this is the case of functional disability and that therefore multiplier



method should be adopted. I am not able to agree with the said contention. It is true that the appellant had suffered grievous and serious injury on his left leg leading to shortening by 4 cms. But that would not disable him from resuming his normal avocation as a mason and stone breaking worker.

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6. Therefore, I sustain the contention of the counsel for the insurance company that multiplier cannot be adopted in this case. But, considering the nature of the injuries suffered by the claimant, the compensation payable to him will certainly have to be enhanced. Accordingly, the compensation payable to the claimant is reworked as under :

Sl.No.	Head	Award Amount in Rs.
1.	For disability (58x3000)	1,74,000
2.	Pain and suffering	50,000
3.	Medical expenses	1,50,000
4.	Loss of income	50,000
5.	Attending charges	10,000
6.	Transportation charges	10,000
7.	Extra nourishment	10,000
	Total	4,54,000

7. The second respondent insurance company is directed to deposit the balance amount within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same with accrued interest for filing an appropriate application before the Tribunal.

8. In the result, the award dated 10.01.2014 passed by the Motor Accidents Claims Tribunal, Sub-Court, Kulithalai is modified as indicated above. This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accidents Claims Tribunal, Kulithalai.

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 82924

+ 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 82530

SKM