



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.11.2017**

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.M.A. (MD) No.311 of 2015 and 108 of 2009**

WEB COPY

A.Thiyagarajan

... Appellant/Petitioner
in CMA 311/15 and
R1 in CMA 108/2009

Vs.

1.Gunasundari

.. R1 in CMA 311/15 and
R2 in CMA 108/2009

2.United Insurance Company Limited,
Madurai,
rep. By its Manager

... R2 in CMA 311/15 and
Appellant in CMA 108/2009

Prayer : These Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.03.2008 made in M.C.O.P.No.169 of 2006 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Kumbakonam.

For Appellant in
CMA 311/15 &
and R1 in CMA 108/09

: Mr.S.Sivathilakar &
Mr.R.Rajaraman

R1 in CMA 311/15 and
R2 in CMA 108/2009

: Mr.K.Mahendran

For R2 in CMA 311/15
and Appellant in CMA
108/2009

: Mr.A.S.Mathialagan

JUDGMENT

The claimant in CMA (MD) No.311 of 2015 viz., Thiyagarajan was travelling in Tricycle. It got involved in an accident with a Mahindra Van belonging to one Gunasundari and insured with United India Insurance Company Limited. In fact, FIR was registered only against the driver of the Tricycle. But, in the accident that took place, the claimant herein suffered a fracture in the right leg. He took treatment in Government Hospital. He was an inpatient for more than a week. Considering the nature of injuries, the Tribunal awarded a sum of Rs.75,000/-. Seeking enhancement, the injured clamant filed CMA(MD) No.311 of 2015.

2.Contending that without arriving at a proper finding regarding negligence, the insurance company cannot be made liable, the insurance company had filed CMA(MD) No.108 of 2009.



3. Heard the learned counsel on either side.

4. It is beyond dispute that the claimant suffered fracture in the leg. Therefore awarding a sum of Rs.75,000/- towards pain and sufferings, loss of income and loss of amenities, extra nourishment etc. cannot be said to be excessive by any standard.

5. Both the appeals stand dismissed. The award dated 27.03.2008 made in M.C.O.P.No.169 of 2006 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Kumbakonam is confirmed.

6. The United India Insurance Company Limited is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum, from the date of 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 entire amount, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

7. Both the Civil Miscellaneous Appeals are is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Kumbakonam.

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

+1cc to Mr.A.S.Mathialagan, Advocate sr.No.88256

+1cc to Mr. S.Sivathilakar, Advocate Sr.No.88615

ARUL

VB/SKN/RSK/SAR4/12/12/2017/2P/5C

**C.M.A. (MD) No.311 of 2015
and 108 of 2009
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