



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.761 of 2017

Swamikkan Dhevadunai

... Appellant

vs

1.Justin Raj

2.United India Insurance Company Ltd.,
Through its Divisional Manager,
2nd Floor, Xavier Building,
ASSISSI Campus,
P.W.D.Office Road,
Post Box No.50, Nagercoil.

... Respondents

Prayer: Appeal filed under 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.677 of 2015 on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, dated 11.11.2016.

For Appellant	: Mr.T.Selvakumaran
For R1	: No Appearance
For R2	: Mr.C.Jawahar Ravindran

JUDGMENT

The claimant has filed this appeal seeking enhancement of compensation.

2.He was riding a two wheeler when the vehicle belonging to the first respondent and insured with the second respondent dashed against him. The claimant suffered a severe grievous injury in his right leg. Even though he was aged about 58 years, the Tribunal adopted multiplier method in view of the functional disability caused to him. The injured was working as a driver in the Transport Corporation.

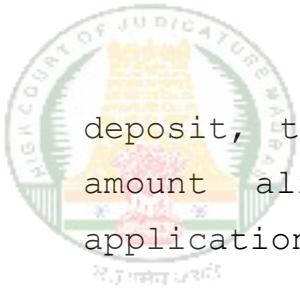


3.The learned counsel appearing for the appellant would submit that he did not cause a single accident. In other words he had an accident free career. Therefore, even after retirement he had every possibility of earning as a driver in his private capacity. Since this possibility has been lost, the Tribunal rightly adopted the multiplier method. The principal grievance of the appellant is that a sum of Rs.6,500/- alone was taken as monthly income. It is his contention that this Court can take judicial notice of the fact that drivers are capable of earning not less than Rs.10,000/- per month. Therefore, the compensation payable to the claimant will have to be necessarily enhanced. Even though the compensation awarded by the Tribunal appears to be on the higher side, on a closer perusal, it can be seen that substantial portion has gone towards meeting medical expenditure alone.

4.Therefore, I am of the view that towards loss of amenities, the claimant can be paid a sum of Rs.60,000/- more. For pain and sufferings he can be paid a sum of Rs.50,000/- more. The claimant appeared before me in-person and he submits that he continues to take treatment. Therefore for extra nourishment and continuing medical expenses a further sum of Rs.90,000/- can be awarded. In all, compensation is enhanced by a further sum of Rs.2,00,000/- .

5.Therefore, the compensation awarded by the Tribunal is enhanced from Rs.10,00,000/- to Rs.12,00,000/-. The order dated 11.11.2016 made in M.C.O.P.No.677 of 2015, on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, is accordingly modified.

6.The second respondent 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 is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

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7.The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (T & P)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
(Special Sub Court), Tirunelveli.

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

+1cc to M/S.T.SELVAKUMARAN, Advocate SR.No.89166.

+1cc to M/S.C.JAWAHAR RAVINDRAN, Advocate SR.No.88843.

JUDGMENT MADE IN
C.M.A. (MD) No.761 of 2017

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SDS/KK/SAR 3/04.01.2018/3P/5C