



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.12.2017

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .No.376 of 2016

A.Raju

... Appellant

Vs.

1.Samayamuthu

2.M/s.New India Assurance Co.Ltd.,
through its Divisional Manager (Hub),
No.258-B, Kamarajar Salai,
Madurai.

... Respondents

Prayer:- Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, praying for enhancement of compensation and claiming compensation amount for disallowed portion in M.C.O.P.No.428 of 2014 on the file of Special District Judge for MCOP Cases, Madurai, dated 08.01.2016.

For Appellant	: Mr.K.Kumaravel
For R1	: No appearance
For R2	: Mr.Y.Prakash

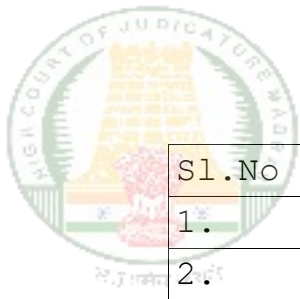
JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this appeal seeking enhancement of the compensation awarded to him. He was riding a two wheeler on 01.02.2013 at about 12.30 p.m., from Melur to Madurai National Highway. The two wheeler belonging to the first respondent and insured with the second respondent, coming from the opposite direction, dashed against the claimant. In the ensuing accident, the claimant suffered fracture in the skull and as well as the maxilla bone.

3.The claimant took treatment in the hospital for more than 12 days. He underwent surgery. The neurologist has certified that the claimant is suffering from 47% disability. The Tribunal however awarded a sum of Rs.2,74,000/- alone. Contending that this is not adequate, this appeal has been filed.

4.I am of the view that considering the nature of the injuries suffered by the claimant, the compensation will have to be necessarily enhanced. The compensation payable to the claimant will have to be reworked as under:-



Sl.No	Heads	Amount in Rupees
1.	For disability	Rs.1,40,000/-
2.	For pain and suffering	Rs. 50,000/-
3.	For transportation	Rs. 10,000/-
4.	For medical Expenditure	Rs.1,50,000/-
5.	For loss of Amenities	Rs. 17,000/-
6.	For attender Charges	Rs. 7,000/-
	Total	Rs.3,74,000/-

5.The compensation payable to the claimant is enhanced from Rs.2,74,000/- to Rs.3,74,000/-. The award dated 08.01.2016, made in M.C.O.P.No.428 of 2014, on the file of the Special District Judge for MCOP Cases, Madurai is modified accordingly.

6.The second respondent is directed to deposit the compensation amount of Rs.3,74,000/- with interest at the rate of 7.5% per annum and cost 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 and thereafter recover the award amount from the first respondent in this very proceeding by filing an execution petition. 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.

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

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Special District Judge for MCOP Cases,
Madurai.

2.Samayamuthu,
S/o.Pandi,
No.58, Nelmandi Street,
Melur, Madurai District.

3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (Two Copies)



+1cc to M/S.K.Kumaravel, Advocate SR.No. 91181
+1cc to M/S.Y.Prakash, Advocate SR.No. 91849

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tsg/lis

JM/SV MMS/SAR 4/20.04.2018/3P/7C