



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.391 of 2016

and

C.M.P (MD) No.5449 of 2016

United India Insurance Company Limited.,  
through its Branch Manager,  
Micro Office, 36-A/17, TST Complex,  
Poovaloor Road,  
Lalgudi-621 601. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.M.Thavaselvam ...1<sup>st</sup> Respondent/Petitioner

2.S.Venkatesan ...2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and degree dated 25.08.2015 made in M.C.O.P No.1099 of 2011 on the file of the Motor Accidents Claims Tribunal (III Additional Subordinate Judge) Tiruchirappalli.

For Appellant : Mr.A.Ilango

For R-1 : Mr.N.Sudhagar Nagaraj

For R-2 : Exparte

### JUDGMENT

Heard the learned counsel on either side.

2.The appellant / Insurance Company has filed this Civil Miscellaneous Appeal against the impugned award dated 25.08.2015 made in M.C.O.P.No.1099 of 2011 by the Motor Accidents Claims Tribunal (III Additional Subordinate Judge) Tiruchirappalli on the ground of quantum.

3.The injured claimant suffered fracture on his face and also a head injury. He was in-patient for seven days in a hospital. His disability was assessed at 30%. The Tribunal has adopted the multiplier method and awarded compensation at Rs.3,47,000/-.



4.The learned counsel for the appellant would submit that the Tribunal ought not to have adopted the multiplier method for awarding compensation in the absence of evidence to show that the claimant is not able to do any work. The learned counsel would also place relying on a decision Honourable Supreme Court of India in **Raj Kumar Vs. Ajay kumar in 2009(2) TNMAC 581(SC)**. The said contention deserves acceptance. Therefore, the compensation payable to the claimant is modified as follows:

| S.No | Heads                   | Amount in Rupees     |
|------|-------------------------|----------------------|
| 1.   | Disability compensation | Rs.90,000/-          |
| 2.   | Loss of income          | Rs. 10,000/-         |
| 3.   | Attender charges        | Rs. 5,000/-          |
| 4.   | Pain and sufferings     | Rs. 50,000/-         |
| 5.   | Medical Treatment       | Rs. 15,000/-         |
| 6.   | Extra nutrition         | Rs. 5,000/-          |
| 7.   | Transport               | Rs. 5,000/-          |
| 8.   | Loss of amenities       | Rs. 20,000           |
|      | Total                   | <b>Rs.2,00,000/-</b> |

The award of the Tribunal as regards the application of pay and recover principle stands confirmed.

5.The appellant / Insurance Company is directed to deposit the said amount with interest at the rate of 7.5% per annum and 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 by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

6.This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The III Additional Subordinate Judge,  
Motor Accidents Claims Tribunal,  
Tiruchirappalli.



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

+1 cc TO Mr.A.Ilango , Advocate in SR No. 89109

+1 cc TO Mr.N.Sudhagar Nagaraj , Advocate in SR No. 89592

Smi

AE/GT/SAR1/23.01.2018/3P/6C

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**23.11.2017**