



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.449 of 2015
and
M.P. (MD) .No.3 of 2015

The Branch Manager
Oriental Insurance Company Ltd.,
Pattukottai.

... Appellant/Respondent No.2

Vs.

1.Anandu
2.Chellappa
(R2 given up)

... Respondent No.1/Petitioner

... Respondent No.2/Respondent No.1

Prayer: Appeal filed under Section 173 of M.V.Act, 1988, to set aside the order of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Pudukottai made in M.C.O.P.No.186 of 2009 dated 28.02.2014.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.K.P.Ramachandran for R1
for R2 - Given up

JUDGMENT

Heard the learned counsel on either side.

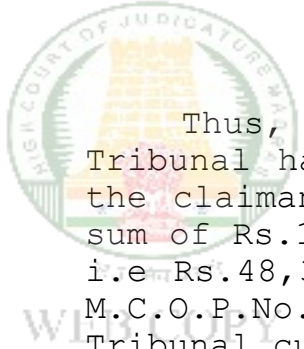
2.The insurance company has filed this appeal on the ground of quantum. The first respondent herein had suffered 28% permanent disability. The Tribunal awarded a sum of Rs.28,000/-, but also awarded towards damages, towards loss of future earning capacity. It has erroneously adopted the multiplier method. Therefore, the compensation payable to the claimant will have to be reworked as under:

For disability 28%x2000	=	Rs. 56,000
For Pain and sufferings	=	Rs. 50,000
For Medical expenses	=	Rs. 5,000
Transportation, extra nourishment and attendant charges	=	Rs. 25,000

Loss of income	=	Rs. 25,000
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<https://hcservices.ecourts.gov.in/hcservices/>

Total	=	Rs.1,61,000/-
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Thus, the compensation would come to Rs.1,61,000/-. The Tribunal has correctly fixed the contributory negligence at 30% on the claimant. Therefore, the insurance company is liable to pay a sum of Rs.1,12,700/- (Rs.161,000/- minus 30% contributory negligence i.e Rs.48,300/-). Accordingly, the award dated 28.02.2014 made in M.C.O.P.No.186 of 2009 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Pudukottai is modified.

3.The appellant/insurance company is directed to deposit the modified compensation 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 twelve 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 said sum, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

4.This civil miscellaneous appeal stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Pudukottai.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

ARUL

TE/MR-KKR/SAR-2 : 20/12/2017 : 2P/3C

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