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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2017

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) .No.453 of 2015

and

M.P (MD) No.3 of 2015

Oriental Insurance Company Ltd,
Thanjavur.

... Appellant/Respondent No.2

Vs.

1.Minor Gnanaprakasam

(Rep by his father Balaji)

... Respondent No.1/Petitioner

2.Mohamed Illiyas

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

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the award and decree dated 04.03.2014 passed in M.C.O.P.No.100/2013 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Kumbakonam.

For Appellant

: Mr.C.Ramachandran

For Respondents

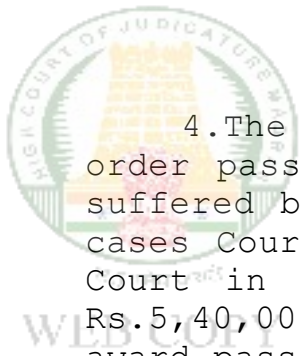
: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by Oriental Insurance Company Limited questioning the award made in MCOP.No.100/2013 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Kumbakonam.

2.The first respondent met with an accident involving a vehicle insured with the appellant company. The claimant suffered amputation of the right leg below the knee. He has now been fixed with artificial leg. Though as per Ex.P9 disability certificate was issued at 80%, the Medical Officer admitted the disability to be 65%. The Tribunal awarded a sum of Rs.19,63,000/- as compensation. Questioning the same, this appeal has been filed. The learned counsel for the appellants contended that for 60% disability Rs.1,20,000/- was rightly awarded. The only ground of challenge is the award of Rs.15,00,000/- by considering the present case as a special case by the Tribunal.

3.The learned counsel for the appellant placed reliance on the decision of this Court reported in 2010(1) TN MAC 195 (M.Gunasundari V. Brills Transports). The said decision is a decision of amputation of leg of a 12 years old girl. In fact, the degree of amputation in her case was more aggravated. This Court awarded a sum of Rs.9,79,161/-.



4.The learned counsel for the claimant sought to sustain the order passed by the Tribunal. I am of the view that the injury suffered by the claimant is incalculable. But, however in these cases Courts have to adopt some yardstick to award damages. This Court in a more serious case of amputation awarded a sum of Rs.5,40,000/- for loss of income. I would therefore modify the award passed by the Court below in the following terms :

for 60% disability	: Rs.1,80,000/-
Pain and sufferings	: Rs.1,20,000/-
Loss of Marital prospects	: Rs.1,00,000/-
Transportation charges	: Rs. 40,000/-
Medical Expenses	: Rs.1,31,000/-
Future Medical Expenses	: Rs. 29,000/-
Loss of Income	: Rs.4,00,000/-

Total	: Rs.10,00,000/-

5.The compensation payable to the claimants is quantified at Rs.10,00,000/-. The appellant insurance company is liable to pay a said sum with interest at the rate of 7.5% per annum. The award passed by the Tribunal is accordingly modified. The amount of compensation awarded by the Tribunal is reduced from Rs.19,63,000/- to Rs.10,00,000/- as indicated above. This Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
The Additional Sub Judge,
Motor Accidents Claims Tribunal,
Additional Sub Court, Kumbakonam.

COPY TO:
The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.C.Ramachandran, Advocate SR.No. 82432

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