



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 04.10.2017

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.M.A. (MD) .No.470 of 2015 and  
M.P. (MD) .No.3 of 2015

M/S. National Insurance Co. Ltd.,  
Through its Branch Manager,  
No.3, North Veli Street,  
Madurai.

... Appellant/Respondent No.2

**Vs.**

1.Kalirajan  
2.M.Paul Pandi

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

... 2<sup>nd</sup> Respondent/Respondent No.1

**PRAYER :** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, aggrieved by the judgment and Decree dated 08.06.2013 passed in M.C.O.P.No.1335 of 2009 on the file of Motor Accident Claims Tribunal/Principal Sub Court, Madurai.

|               |                 |
|---------------|-----------------|
| For Appellant | : M/s.P.Malini  |
| For R1        | : Mr.A.Theethar |
| For R2        | : No appearance |

### **JUDGMENT**

This Civil Miscellaneous Appeal has been filed by the appellant/ National Insurance Company Limited, challenging the award dated 08.06.2013, made in M.C.O.P.No.1335 of 2009, on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Madurai.

2.One Kalirajan, the first respondent herein is the claimant. According to him, he met with an accident on 08.07.2009 at about 23.00 hours on account of the rash and negligent driving of the vehicle belongs to the second respondent herein. The said vehicle namely, Maruthi Van bearing Registration No. TN.58-S-1146 was insured with the appellant company.

3.The claimant suffered grievous injury on his head. He took treatment in new Vikram Hospital as in-patient from 08.07.2009 to 30.07.2009. He has continued the treatment and he spent a sum of Rs.2,00,000/- on medical expenses alone. He was working as Clerk in a private concern and on account of the accident in question, he could not attend to his employment for almost two years. Therefore, he filed the said M.C.O.P seeking payment of Rs.4,00,000/- as compensation.

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4.The vehicle owner remained ex-parte. The appellant Insurance Company filed their counter opposing the claim.



5.The Tribunal awarded a sum of Rs.3,30,064/- with interest at 7.5% from 11.09.2009 to 08.06.2013. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed by the Insurance Company.

6.This Court heard the learned counsel for the parties and also perused the materials available on record.

7.It is seen that the claimant examined himself as P.W.1 and he also examined Dr.Sankarlal, P.W.3, and marked Exs.P1 to P8. After considering all the aspects, the Tribunal awarded the said sum of Rs. 3,30,064/- as compensation.

8.The Tribunal has given a finding that the claimant should be awarded Rs.96,000/- towards loss of income. Further, the Tribunal had observed that for a period of two years, the claimant could not attend to his work. But for this, there is no proof. Further, it is a matter for record that the claimant suffered severe injuries on his head and on other parts of the body. Therefore, it is reasonable to hold that the claimant would not have attended to his normal duties for at least one year. Therefore, I am inclined to reduce the compensation amount awarded under this head to Rs.66,000/-. In all other respects, the award of the Tribunal is confirmed. The total award amount of Rs. 3,30,064/- is modified to Rs.3,00,000 with interest at the rate of 7.5% from the date of petition till the date of realization.

9. The appellant is directed to deposit the modified award amount of Rs.3,00,000/- (Rupees Three lakhs only) with proportionate interest at 7.5% from the date of petition till the date of realization to the credit of M.C.O.P.No.1335 of 2009, on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Madurai, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited if any. On such deposit, the respondent/ claimant is permitted to withdraw the entire amount, on filing proper application before the Tribunal.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,  
Motor Accident Claims Tribunal, Madurai.

CP

TE/KP/SAR-I : 27/10/2017 : 2P/2C

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