



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2017

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CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.951 of 2017

and

C.M.P. (MD) Nos.10008 and 11411 of 2017

M/s.The New India Assurance Co. Ltd.,  
Through by its Branch Manager,  
Thiruthangal, Sivakasi,  
Virudhunagar District. ... Appellant / 2<sup>nd</sup> Respondent

Vs.

1.Rajendran ...1<sup>st</sup> Respondent / Claimant

2.M/s.Nayagi Fire Works (P) Ltd,  
4/70, Thayilpatti Village,  
Sivakasi Via,  
Virudhunagar District. ...2<sup>nd</sup> Respondent / 1<sup>st</sup> Respondent

(2<sup>nd</sup> Respondent remained ex-parte before  
Tribunal. Hence, notice to him is given up)

**Prayer:** Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.03.2016 made in M.C.O.P.No.92 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Sankarankovil.

For Appellant : Mr.B.Rajesh Saravanan

For R-1 : Mr.U.Minnavadi

For R-2 : *Ex parte*

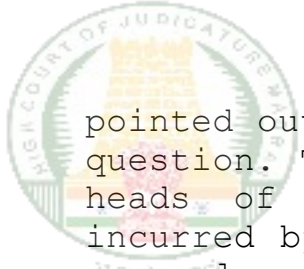
### J U D G M E N T

Heard the learned counsel on either side.

2.The insurer has filed this appeal, questioning the impugned award on the ground of quantum.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned counsel appearing for the appellant insurer



pointed out that the claimant suffered injuries in the accident in question. The Tribunal awarded a sum of Rs.7,38,095/-. One of the heads of damages was in respect of the medical expenditure incurred by the claimant. Under this head a sum of Rs.4,45,946/- was already awarded. The learned Counsel appearing for the appellant would point out that the claimant was working in BSNL Office, Kalugumalai. He was entitled to medical reimbursement. As per CGHS rates, he reimbursed to a tune of Rs.1,46,568/-. He therefore contended that when the claimant had already availed medical reimbursement from his parent department, it is not open to him to lodge a claim on the same cause of action before the tribunal also.

4. I find force in this submission. However, it is seen that the department did not reimburse the entire medical expenses incurred by the claimant. Only a portion of the medical expenditure was reimbursed. Therefore, to this extent, there can be an interference with the award in question. In all other aspects the award stands confirmed.

5. Therefore, the compensation payable to the claimant is reduced from Rs.7,38,095/- to Rs.5,91,530/-. The award dated 05.03.2016 made in M.C.O.P.No.92 of 2013 on the file of the Motor Accident Claims Tribunal (Sub court), Sankarankovil, is modified accordingly.

6. The appellant insurance company is liable to deposit the entire compensation amount of Rs.5,91,530/- with interest at 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 judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the entire amount, 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. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,  
The Motor Accident Claims Tribunal  
Sankarankovil.



2. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai. (2 copies)

+ 1 cc TO Mr.B.Rajesh Saravanan , Advocate in SR No. 94025  
+ 1 cc TO Mr.U.Minnavadi , Advocate in SR No. 94017

kmi

AE/SV MMS/SAR1/28.06.2018/3P/6C

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**20.12.2017**