



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No.511 of 2016

Pandian

... Appellant/Claimant

Vs.

1. S.Baskar

2. The Branch Manager,
National Insurance Company Limited,
No.5A, Sub Collector Office Road,
Near District Court Campus,
Dindigul.

... Respondents/Respondents

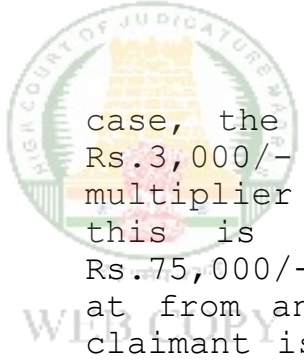
Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.08.2014 made in M.C.O.P.No.695 of 2012, on the file of the Motor Accident Claims Tribunal [Special Sub Court], Dindigul.

For Appellant : Ms.M.Murugeswari
for M/s. Vijayakumari Natarajan
For R2 : Mr.J.S.Murali

JUDGMENT

The injured claimant has filed this appeal, seeking enhancement of the compensation awarded to him. The claimant Pandian was working as a Goldsmith. He was riding his two-wheeler on 21.09.2011 at about 07.30 P.M. The Maruthi omni car bearing Registration No. TN-01-AA-7980 belonging to one Baskar and insured with the second respondent herein, hit the two-wheeler. In the resulting accident, the claimant suffered multiple fractures including on his forehead. The injuries suffered by him was so severe. The doctor assessed his disability at 78%. The Tribunal awarded a sum of Rs.10,06,560/- as compensation with interest. Contending that the amount of compensation is not sufficient, this appeal has been filed.

2.The learned counsel appearing for the appellant pointed out that on account of the injuries suffered by him, he has become totally disabled. In fact he was not in position to depose as a witness in the trial Court. It was the wife of the claimant, who was examined as P.W.1. It is seen from the record that the claimant had suffered skull injuries. He is no longer in a position to resume his avocation as a Goldsmith. A sum of Rs.5,76,560/- was incurred towards medical expenditure. In this



case, the Tribunal awarded disability compensation at the rate of Rs.3,000/- per percentage of disability. I am of the view that multiplier method ought to have been adopted in this case, since this is a case of functional disability. A meagre sum of Rs.75,000/- was awarded towards loss of pain and sufferings. Looked at from any angle, compensation of Rs.15,00,000/- claimed by the claimant is just and reasonable. The Tribunal erred in awarding a sum of Rs.10,06,560/-.

3. In this case the claimant had marked his income tax return for the period of 2008-2009 up to 2011-2012. The income tax returns are anterior in point of time. The Tribunal has taken the monthly income at Rs.10,000/- only. The case of the claimant is that he was earning a sum of Rs.25,000/-. Therefore, the Tribunal ought to have awarded the compensation as prayed for in the claim petition. I have no hesitation to enhance the compensation payable to the claimant from Rs.10,06,560/- to Rs.15,00,000/-.

4.The second respondent Insurance company is directed to deposit the compensation amount of Rs.15,00,000/- 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 judgment, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the entire compensation amount, less the amount already withdrawn by him, if any, by filing proper application.

5.This Civil Miscellaneous Appeal is allowed, as prayed for. The award dated 28.08.2014 made in M.C.O.P.No.695 of 2012, on the file of the Motor Accident Claims Tribunal [Special Sub Court], Dindigul is modified, accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal, Dindigul.

Copy To:-

The Section Officer, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mrs.VIJAYAKUMARI NATARAJAN, ADVOCATE IN SR No. 92592
+ 1 CC TO Mr.J.S.MURALI, ADVOCATE IN SR No. 92614

KMI

TE/KKR/SAR-3 : 18/06/2018 : 2P/6C

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