



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.478 of 2015

Aarthi

... Appellant/Petitioner

VS

1. T.Muthukumar

2. The Branch Manager,
The Reliance General Insurance Co.Ltd,
No.10/4/4 Thaha Plaza 2nd Floor,
South Bye pass Road,
Vannarpet, Tirunelveli - 627 003. ... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 02.02.2013 made in MCOP.No.47 of 2011 on the file of the Motor Accident Claims Tribunal (Addl. District Judge), Virudhunagar.

For Appellant	: Mr.M.Suri
For Respondents	: Mr.S.Srinivasa Raghavan
	for R2
	No Appearance for R1

JUDGMENT

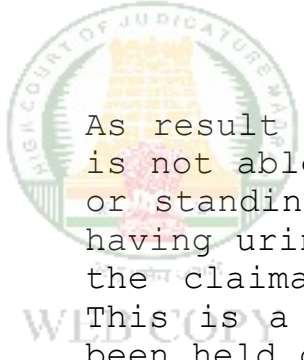
This Civil Miscellaneous Appeal has been filed seeking enhancement of the compensation awarded in MCOP.No.47 of 2011 on the file of the Motor Accident Claims Tribunal (Addl. District Judge), Virudhunagar.

2.The appellant met with an accident while travelling in a car, which was insured with the second respondent insurance company. Crime No.789 of 2010 was registered in this regard. The appellant prayed for payment of a compensation of Rs.10,00,000/- with interest. The Tribunal however awarded a sum of Rs.2,89,384/-. Aggrieved by the inadequate compensation awarded by the Tribunal, this appeal has been filed.

3.Heard the learned counsel for both parties.

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

4.The injury suffered by the claimant is on the spinal cord.



As result of the said fracture, it is submitted that the claimant is not able to walk freely and she is having difficulty in sitting or standing and even answering the calls of nature. She is also having urinal issues. In view of the nature of injury suffered by the claimant, the Court should have adopted multiplier method. This is a case of functional disability. In such cases, it has been held consistently that multiplier method should be adopted.

5.The learned counsel for the claimant would place reliance on the decision of the Supreme Court held in **2004(2) TNMAC 398 - Nagappa Vs. Gurudayal Singh and Others** and **2013(2) TNMAC 55 - Rajesh V. Rajbir Singh**. He would place particular reliance on a recent decision of our High Court reported in **2017(2) TNMAC 124 - Tamil Nadu State Transport Corporation (Villupuram Division) Ltd. V. Manikandan (Minor)**. The factual matrix in the said decision and the present case are broadly similar. The claimant was a girl aged 19 years when the accident took place. Since the claimant has suffered spinal cord injury, her marital prospects would also be affected.

6.Therefore, I am of the view that the Loss of income on disability is worked out as $\text{Rs.}6500 \times 12 \times 18 = \text{Rs.}14,04,000$. Since it is not a case of total disability, the said amount can be reduced to $\text{Rs.}7,00,000/-$. The claimant could be awarded a sum of $\text{Rs.}1,60,000/-$ toward medical expenses. Towards pain and suffering, she could be awarded $\text{Rs.}1,00,000/-$. For future medical expenses, a sum of $\text{Rs.}40,000/-$ could be awarded. The claimant had restricted her claim to a sum of $\text{Rs.}10,00,000/-$ before the Court below. The Tribunal however awarded only a sum of $\text{Rs.}2,89,400/-$. I am of the view that the claim petition should have been allowed as prayed for. The compensation payable by the second respondent is enhanced to a sum of $\text{Rs.}10,00,000/-$. The second respondent is directed to deposit the balance of the enhanced amount with 7.5% per annum from the date of petition till the date of realization to the credit of MCOP.No.47 of 2011 on the file of the Motor Accident Claims Tribunal (Addl. District Judge), Virudhunagar, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the same by filing proper application before the Tribunal.

7.This civil miscellaneous appeal is allowed as indicated above. No costs.

Sd/-
Assistant Registrar (Records)

/True copy/



To

The Additional District Judge,
Motor Accident Claims Tribunal,
Virudhunagar.

Copy to:

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

+ 1 CC TO MR.M.Suri, ADVOCATE IN SR No.82386
+ 1 CC TO MR.S.Srinivasa Raghavan, ADVOCATE IN SR No.82605
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MK/KK/SAR-2/31.10.2017/3P/5C

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