



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. 557 of 2016 and
C.M.P. (MD) .11373 of 2017

S. Mariappan

... Appellant

Vs.

1. A. Arunachalapandian

2. United India Insurance Company Limited,
Through its Branch Manager,
No. 5, Gomathiyapuram New First Street,
Balaji Complex, Sankarankovil,
Tirunelveli District.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal consequently enhance the award amount in M.C.O.P. No. 112 of 2011, on the file of the Motor Accident Claim Tribunal, (Chief Judicial Magistrate Court), Tirunelveli, dated 30.01.2012.

For Appellant : Mr. T. Selvakumaran
For Respondents : Mr. A. Ilango for R2
: No Appearance for R1

JUDGMENT

Heard the learned counsel on either side.

2. The appellant is a practising Advocate. He met with an accident on 24.12.2010 at about 1:45 P.M. He was riding a two wheeler. A Mini bus insured with the second respondent herein hit him. In the resulting accident, the appellant suffered severe injuries on the hip as well as the right knee. He filed M.C.O.P. No. 112 of 2011, on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Tirunelveli. The Tribunal awarded a sum of Rs. 7,18,531/- with interest. Contending that the compensation amount must be enhanced, this appeal has been filed.

3. The amount claimed in the appeal is restricted to Rs. 5,00,000/-. Even though, the appellant suffered disability to the tune of 79%, the Tribunal chose to fix the disability only at 40%. The award was passed on 30.01.2012. But the appellant has been under continuing treatment ever since. The appellant has filed C.M.P. (MD) No. 11373 of 2017, for reception of the medical bills as additional documents. The appellant has filed an affidavit for authenticating the veracity of the said bills. It is seen that the



appellant underwent two surgeries on 15.07.2014. He had incurred a sum of Rs.6,75,459/- towards the medical treatment after passing of the award.

4.I am convinced that the bills produced by the appellant are true and genuine. The appeal itself is only to award a sum of Rs.5,00,000/-. The second respondent is therefore entitled to pay a further sum of Rs.6,75,459/- over and above what was already awarded to the appellant. Therefore, the compensation payable to the claimant is enhanced from Rs.7,18,531/- to Rs.13,93,990/-.

5.Therefore, the award dated 30.01.2012, made in M.C.O.P.No.112 of 2011, on the file of the Motor Accident Claim Tribunal, (Chief Judicial Magistrate), Tirunelveli, is modified accordingly.

6.The second respondent is directed to deposit the compensation amount of Rs.13,92,990/- with interest at the rate of 7.5% per annum with 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 appellant/claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal. The appellant has paid the Court fee for a sum of Rs.5,00,000/-. Registry is directed to collect the difference in Court fee.

7.This Civil Miscellaneous Appeal is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
The Motor Accident Claim Tribunal/
The Court of Chief Judicial Magistrate, Tirunelveli,
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)
3. The Section Officer, A.E.Section,
Madurai Bench of Madras High Court, Madurai.

Copy To:- A.Arunachalapandian,
No.145 A5/1, Mullai Nagar,
Sankarankovil, Tirunelveli District.

+ 1 CC TO Mr.T.SELVAKUMARAN, ADVOCATE IN SR No. 92916