



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.605 of 2015

P.Gurunathan

... Appellant / Petitioner

Vs.

1.A.Rafeeq Ahamed

2.M/s.United India Insurance Co.Ltd.,
BO.I.114/120, Super Bazaar,
Trichy.

... Respondents / Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the III Additional Sub Judge, (MACT), Tiruchirapalli in M.C.O.P.No.187 of 2009 dated 25.10.2010.

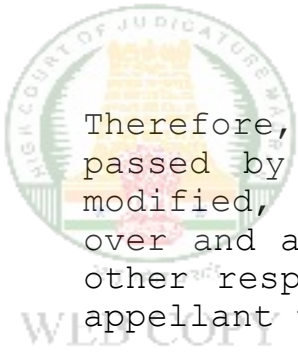
For Appellant : Mr.P.Muthiyan
For R-2 : Mr.R.Ravindran
R-1 : Deceased

J U D G M E N T

Heard the learned counsel on either side.

2.The claimant has filed this appeal seeking enhancement of the compensation awarded to him by the Tribunal. The claimant was injured in an accident that took place on 12.07.2008. The offending vehicle belonged to the first respondent in the M.C.O.P and was insured with the second respondent. Since there was a breach of the policy condition, the Tribunal passed a pay and recovery award against the insurance company. A sum of Rs.71,000/- alone was awarded as compensation.

3.The claimant had suffered two fractures in his leg. The Doctor had assessed the disability at 49% but the tribunal reduced it to 25%. Thus a sum of Rs.25,000/- alone was awarded towards the disability compensation. Since a sum of Rs.2,000/- will have to be awarded per percentage of the disability, a sum of Rs.25,000/- will have to be straight away added. For pain and suffering a sum of Rs.30,000/- can be awarded instead of Rs.15,000/-. Towards loss of amenities a sum of Rs.10,000/- can be awarded under this head no compensation had been awarded.



Therefore, the award dated 25.10.2010 in M.C.O.P.No.187 of 2009 passed by III Additional Sub Judge, (MACT) Tiruchirapalli, is modified, accordingly. A further sum of Rs.50,000/- is awarded over and above what was already awarded by the Tribunal. In all other respects, the award of the Tribunal stands confirmed. The appellant will be entitled to Rs.1,21,000/- with interest.

4. The second respondent herein is directed to deposit the entire compensation amount of Rs.1,21,000/- with the 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 order, less the amount already deposited, if any. On such deposit the claimant is entitled to withdraw the entire amount by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

5. Accordingly, the Civil Miscellaneous Petition is partly allowed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The III Additional Sub Judge, (MACT),
Tiruchirapalli.

COPY TO:

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

+1cc to M/S.N.S.Ramakrishna dass, Advocate SR.No. 90002
+1cc to M/S.R.Ravindran, Advocate SR.No. 90138

C.M.A. (MD) No. 605 of 2015
28.11.2017

kmi

JM/SV MMS/SAR 1/17.01.2018/2P/6C