



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.11.2017
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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C.M.A. (MD) No.845 of 2016
and
C.M.P (MD) No.7930 of 2016

The Divisional Manager ,
Iffco Tokyo General Insurance
Company Limited,
Office at Thiripura Arcade
3rd Floor, No.75, Trivandrum Road,
Palayamkottai, Tirunelveli.

... Appellant/R2

Vs.

1.Nallathambi

... Respondent/Petitioner

2.G.Sivasakthi Kumar

... Respondent / R1

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 08.12.2015 made in MCOP.No.1377 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellant : Mr.K.R.Shivasankari
for Mr.S.Srinivasa Raghavan

For Respondents : No appearance

JUDGMENT

Heard the learned counsel on either side.

2.The insurance company has filed this appeal questioning the impugned award both on the grounds of negligence as well as quantum.

3.One Nallathambi was riding his two wheeler when the vehicle insured by the appellant herein got involved in a collision. In the ensuing accident, the said Nallathambi suffered fractures on his right leg.

4.The learned counsel appearing for the appellant would contend that contributory negligence ought to have been fixed on the claimant. I am not in a position to accept the said submission. This is because no evidence was adduced on the side



of the appellant or the owner of the offending vehicle before the Tribunal. I sustain the finding of the Tribunal fastening the entire negligence on the driver of the offending vehicle.

5. Coming to the quantum of compensation, it is seen that the claimant suffered 60% disability. He was aged about 29 years. He was working as a Mason. The accident took place on 16.11.2014. The Tribunal adopted the multiplier method. It has not been established that the claimant suffered functional disability as a result. Therefore, adopting the multiplier method is clearly erroneous.

6. The compensation payable to the claimant will have to be reworked as under :

For disability compensation (60X3000)	: Rs.1,80,000/-
Medical expenditure	: Rs.1,20,000/-
Loss of income	: Rs.50,000/-
Pain and sufferings	: Rs.1,50,000/-
Attender charges	: Rs.25,000/-
Extra nourishment	: Rs.50,000/-
Transportation charges	: Rs.20,000/-
Loss of amenities	: Rs.25,000/-

Total	: Rs.6,20,000/-

7. The compensation payable to the claimant is reduced from Rs.9,29,000/- to Rs.6,20,000/-. The award dated 08.12.2015 made in MCOP.No.1377 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli is modified.

8. The appellant insurance company is directed to deposit the sum of Rs.6,20,000/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, 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 same, by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

9. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

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

Sub Assistant Registrar



To

1. The Motor Accidents Claims Tribunal,
Special Sub Court, Tirunelveli.

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

+1cc to Mr.S.Srinivasa Raghavan, Advocate Sr.No.89032

+1cc to Mr.R.Jim, Advocate Sr.No.89282

SKM

VB/SKN/RSK/SAR2/01.03.2018/3P/6C

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