



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.956 of 2016

Royal Sundaram Alliance
Insurance Company Limited,
Krishna Plaza, 1st Floor,
Nachiyar Street, Erode-1,
Represented by its Branch Manager. ... Appellant/2nd Respondent

vs

1.Abishiek ... 1st Respondent/Claimant
2.Vardhappan ... 2nd Respondent/1st Respondent
3.New India Insurance Company Limited,
Theni,
Represented by its
Branch Manager. ... 3rd Respondent/3rd Respondent

(R.1 declared as Major. The guardian ship
is discharged as per the order of this Court
dated 30.08.2017 made in C.M.P.(MD).Nos.5097
and 5098 of 2017 in C.M.A.(MD).No.956 of 2016)

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act,
1988 to set aside the fair and decreetal order dated 15.04.2015 made
in M.C.O.P.No.17 of 2013 on the file of the Motor Vehicles Accident
Claims Tribunal (Additional District and Sessions Judge), Theni at
Periyakulam.

For Appellant : Mr.Jerin Mathew
for Mr,M.E.Ilango
For Respondents : Mr.G.Vanjinathan for R.1
Mr.D.Malaichamy for R.3
: No Appearance for R.2

JUDGMENT

This Civil Miscellaneous Appeal has been filed by Royal
Sundaram Alliance Insurance Company Limited, challenging the award
made in M.C.O.P.No.17 of 2013 on the file of the Motor Vehicles
Accident Claims Tribunal Additional District and Sessions Judge,
Theni at Periyakulam.



2.The first respondent suffered injury in an accident involving the vehicle insured with the appellant.

3.The learned counsel for the appellant fairly states that there is no dispute regarding their liability. He only questioned the quantum of compensation. The first respondent on account of the injuries suffered in an accident took treatment in Salem Manipal Hospital and was an in patient from 11.07.2012 to 14.07.2012. Thereafter, he was taken to Coimbatore K.G.Hospital and was treated as an inpatient from 15.07.2012 to 13.08.2012. Even though Ex.P.37 Certificate has been issued by P.W.4, certifying that there is 36% disability nothing is brought on record to show as to how the disability has been actually assessed. The mere issuance of certificate by a doctor is not sufficient. The claimant must establish that he was adverse consequences as a result.

4.This Court therefore reduces the compensation awarded to the claimant by the Tribunal. Since medical bills have been submitted. It is seen that a sum of Rs.4,48,500/- was spent towards medical expenditure. This Court does not wish to interfere with the same. A sum of Rs.37,850/- has been awarded towards transportation. The first respondent was a child. He was studying in a school. Therefore loss of income would not arise. The claimant has not established that he suffered a permanent or partial disability. However taking into account the fact that he was an inpatient for more than a months, the sum of Rs.1,00,000/- has to be awarded towards pain and suffering. Thus the compensation payable to the claimant can be reworked as follows.

Pain and suffering	: Rs.1,00,000/-
Medical Expenditure	: Rs.4,48,500/-
For Transportation expenses	: Rs. 37,850/-

	Rs.5,86,350/-

5.The compensation payable to the first respondent is reduced from Rs.9,05,350/- to Rs.5,86,350/-. The award dated 15.04.2015 made in M.C.O.P.No.17 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam is modified. The compensation payable to the claimant is reduced from Rs.9,05,350/- to Rs.5,86,350/- The appellant is liable to pay the said sum of Rs.5,86,350/- to the first respondent at 7.5% per annum from the date of petition till the date of realisation. The appellant shall deposit the said amount within twelve weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.17 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam, if the same is not already deposited. On such deposit, the claimant is permitted to withdraw the same by filing proper application before the Tribunal.



6.This Civil Miscellaneous Appeal is accordingly modified and partly allowed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge,
Motor Vehicles Accident Claims Tribunal,
Theni, Periyakulam.

Copy To:-

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

TSG

TE/MR/SAR-4 : 22/02/2018 : 3P/4C

JUDGMENT MADE IN
C.M.A. (MD) No.956 of 2016
11.10.2017