



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

C.M.A. (MD) No.290 of 2016

and

CMP (MD) Nos.4021 of 2016

&

10071 of 2016

Royal Sundaram Alliance Insurance Co., Ltd,
through its Branch Manager,
Off.No.45 & 46 whites road,
Chennai - 600 014.

... Appellant/2nd Respondent

Vs.

1.Venugopal

... 1st Respondent / Petitioner

2.Jeppiaar Blue Metal Private Ltd,
through its Authorised Signatory,
Office at Kunnavakkam Village,
Kancheepuram.

... 2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 01.07.2015 made in MCOP.No.685 of 2013 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli.

For Appellant	: Mrs.K.R.Shiva Shankari for Mr.S.Srinivasa Raghavan
For Respondents	: Mr.T.Selvakumaran for R2

JUDGMENT

The insurance company has filed this appeal challenging the impugned award dated 01.07.2015 made in MCOP.No.685 of 2013 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli on the ground of liability.

2.The claimant was a pillion rider in a two wheeler. The lorry insured with the appellant herein came from the opposite direction and was driven in a rash and negligent manner and dashed against the two wheeler causing the accident in question. The claimant had suffered multiple fractures on his right leg. The disability was assessed at 60%. He was a Load man. Since it is a case of functional disability, the Tribunal adopted multiplier method. This cannot be faulted. The Tribunal had fixed the monthly income of the claimant at Rs.4,500/-. I am of the view that the claimant's monthly income at the time of the accident in question took place in the year 2013, the monthly income can be taken as Rs.5,500/-. The question of



giving future prospects will not arise in this case since it is a case of injury. The compensation will have to be modified.

3.If the monthly income is taken as Rs.5,500/- without adding future prospects, applying the same method as done by the Tribunal, the pecuniary loss would come to Rs.5,94,000/- (Rs.5,500x12x15x60/100). The compensation awarded under other heads are not disturbed. The compensation payable to the claimant is reduced from Rs.12,65,000/- to 11,30,000/-.

4.The award dated 01.07.2015 made in MCOP.No.685 of 2013 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli is modified.

5.The appellant insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum, from the date 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 being made, the claimant is permitted to withdraw the same by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

6.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal
(Special Sub Court), Tirunelveli.

COPY TO:

The Record Keeper, V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.Srinivasa Raghavan, Advocate SR.No. 88388

+1cc to M/S.T.Selvakumaran, Advocate SR.No. 88328

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