

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3514 of 2008

AND

MP.No.1 of 2008

The New India Assurance Co., Ltd.,
P.B.No.74,
Kumaran Shopping Complex,
Kumaran Salai,
Tirupur.

...Appellant/2nd Respondent

Vs

1.N.Nagarajan

2.The Manager,
M/s.Laures Apparels,
24, Anna Nagar,
K.P.N.Colony,
Tirupur.

...Respondents/Petitioner &
1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decree dated 06.02.2007 and made in M.A.C.T.O.P.No.69 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal and Additional District Judge, (Fast Track Court No.V) Coimbatore at Tiruppur.

For Appellant : Mr.S.Ramalingam

For Respondent : Mr.S.S.Swaminathan (for R1)
R2 served - No appearance

JUDGMENT

The instant appeal has been filed challenging the Award dated 06.02.2007, passed by the Motor Vehicles Accident Claims Tribunal and Additional District Judge, (Fast Track Court No.V) Coimbatore at Tiruppur in M.A.C.T.O.P.No.69 of 2006.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)The first respondent sustained injuries on 17.11.2005 as a result of an accident caused by a Goods Auto bearing

Registration No.TN-39-Y-9238 owned by the second respondent and insured with the Appellant.

(ii)The first respondent preferred a claim before the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.69 of 2006, seeking a compensation of Rs.5,00,000/-.

(iii)The Motor Accident Claims Tribunal, by its Award dated 06.02.2007 in M.A.C.T.O.P.No.69 of 2006, directed the Appellant to pay the first respondent a sum of Rs.2,82,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3.Aggrrieved by the Award dated 06.02.2007, passed by the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.69 of 2006, the instant appeal has been filed by the Insurance Company.

4.Heard, Mr.S.Ramalingam, learned Counsel for the Appellant and Mr.S.S.Swaminathan, learned Counsel for the first respondent.

5.According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal ought not to have applied the multiplier method while assessing the compensation payable to the first respondent for the injuries sustained by him as a result of an accident caused by a vehicle insured with the Appellant.

6.According to the learned Counsel for the Appellant, the first respondent sustained only a fracture in the right leg and at the time of the accident and he was working as an Inspection Executive in a private concern and therefore the Tribunal ought not to have applied the multiplier method while assessing the disability compensation.

7.Per contra, the learned Counsel for the second respondent would submit that the Tribunal has rightly applied the multiplier method considering the nature of injuries sustained by the first respondent and also his avocation at the time of the accident.

8.This Court after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the respective counsels observes the following:

(a)The first respondent has sustained fracture on the right leg and also sustained multiple injuries all over the body. The first respondent has also filed a disability certificate disclosing 48.4% disability before the Tribunal which was marked as Ex.P.12. But the Tribunal has assessed disability of the first respondent only at 30%. No contra evidence has been produced by the Appellant before the Tribunal to disprove the disability of the first respondent due to the injuries suffered by him as a result of the accident.

(b)The first respondent was 38 years old at the time of filing claim but the Tribunal has assessed the age of the first respondent at 40 years as per Ex.P.11 which is the driving license of the first respondent. No contra evidence has been produced by the Appellant to disprove the age of the first respondent.

(c)The nature of avocation of the first respondent namely Inspection Executive in a private concern has also not been disputed by the Appellant before the Tribunal. As an Inspection Executive, the first respondent has to move from place to place. The learned Counsel for the first respondent has also produced a photograph of the first respondent taken after the accident which is marked as Ex.P.8 before the Tribunal. As seen from the photograph, it is evident that the first respondent has sustained grievous injuries on his right leg. Considering the nature of injuries sustained by the first respondent and his avocation at the time of the accident, this Court is of the considered view that the Tribunal has rightly adopted the multiplier method in assessing the disability compensation payable to the first respondent.

10.In the light of the above observations, there is no merit in the instant appeal. Accordingly, the appeal is dismissed. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

mtl/d

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Vehicles Accident Claims Tribunal
and Additional District Judge,
(Fast Track Court No.V)
Coimbatore at Tiruppur.

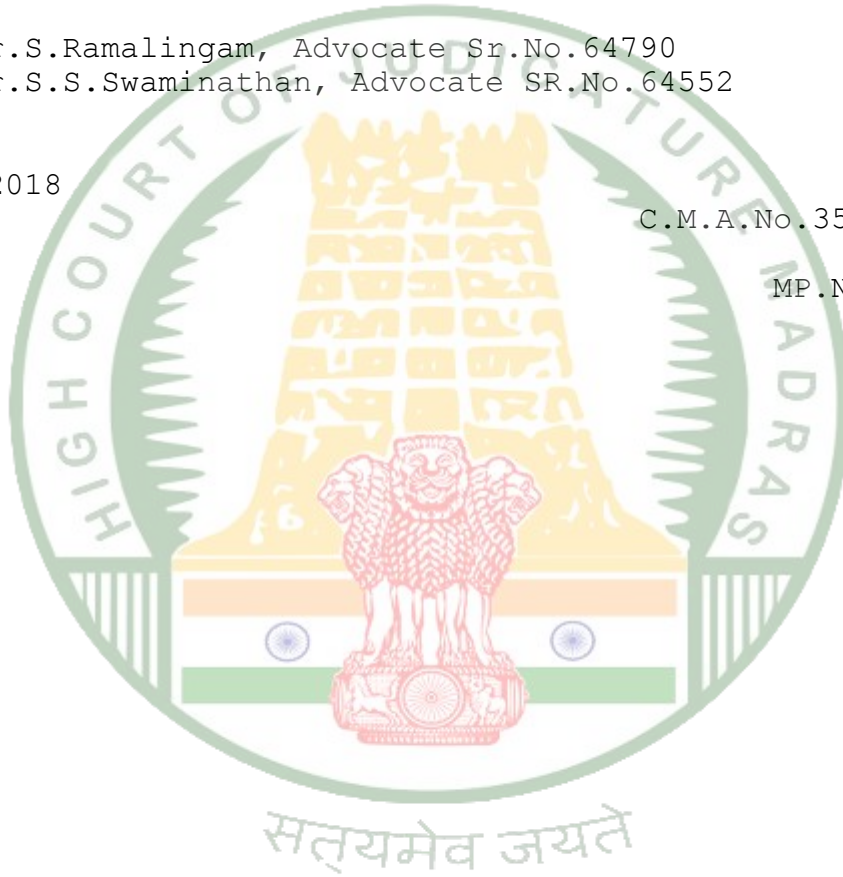
2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.S.Ramalingam, Advocate Sr.No.64790

+1cc to Mr.S.S.Swaminathan, Advocate SR.No.64552

NM(CO)
sm:16.10.2018

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