



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.535 of 2014

Arumuga Nainar

.. Appellant/Petitioner

Vs.

1.Tuticorin Salt & Marine Chemical Limited,
Harbor Link Road,
Tuticorin.

2.United India Insurance Company Ltd.,
through its Branch Manager,
No.81-C, W.G.C. Road,
Tuticorin.

.. Respondents/Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.62 of 2012 on the file of Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli, dated 30.09.2013.

For Appellant : Mr.T.Selvakumaran

For Respondent No.2 : Mr.N.Sivakumar

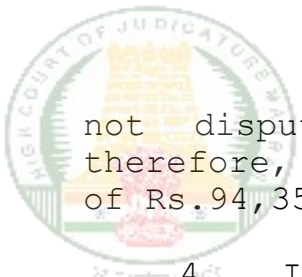
Respondent No.1 : Exparte

JUDGMENT

Assailing over the judgment and decree passed by the Motor Accident Claims Tribunal, Principal Sub Court, Tirunelveli, in M.C.O.P.No.62 of 2012 dated 30.09.2013, the present civil miscellaneous appeal has been filed.

2. Heard both sides and perused the records carefully.

3. It is a case of injury and the claimant/injured, being dissatisfied with the compensation of Rs.94,350/- awarded by the Tribunal, is before this Court, seeking enhancement. According to the appellant/claimant, he was a Coolie in Brick Kiln and earning Rs.10,000/- per month and in consequence to the accident, which is



not disputed, the appellant sustained several fractures and therefore, the tribunal was not justified in awarding a meagre sum of Rs.94,350/- as compensation.

4. It is seen from the records that the appellant/claimant sustained multiple fractures and injuries all over the body. From the Doctor's evidence, it is seen that disability was assessed as 30% and from the award passed by the tribunal, it is seen that the tribunal has awarded Rs.60,000/- towards disability, which, in my considered opinion, is very meagre. The tribunal ought to have ordered atleast Rs.3,000/- per percentage of disability as per the judgment rendered by this Court in the decision reported in 2013 (2) TN MAC 583 in the case of National Insurance Company Ltd., vs. G.Ramesh, and therefore, this Court is inclined to enhance the award amount under that head.

5. Since 30% disability has been assessed, the compensation towards disability is enhanced from Rs.60,000/- to Rs.90,000/- (Rs.3000 x 30), i.e., a sum of Rs.30,000/- is enhanced towards disability. As far as the other heads are concerned, the tribunal had taken the monthly income as Rs.3000/- and fixed the loss of income for the period of three months as Rs.9,000/- (Rs.3000 x 3), which, in my considered opinion, is very meagre and therefore, the same deserves interference at the hands of this Court. The Hon'ble Supreme Court, in this context, in the decision reported in 2014 (1) TN MAC 459 (SC) in the case of Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd., has held that the reasonable monthly income of a labour in an unorganized sector doing his own business would be Rs.6,500/-. Therefore, in the present case on hand, considering the age of the injured as well as the nature of job of the deceased, this Court fixes a sum of Rs.6,500/- as monthly income of the injured, which would be reasonable. Hence, the compensation towards loss of income for the period of three months is enhanced from Rs.9,000/- to Rs.19,500/- (Rs.6,500 x 3), i.e., a sum of Rs.10,500/- is enhanced towards loss of income. Since the petitioner was suffered 30% permanent disability, it will be appropriate to enhance the award amount to a sum of Rs.10,000/- instead of Rs.5000/- towards extra nourishment and Rs.25,000/- instead of Rs.15,000/- towards pain and sufferings.

6. In result, this civil miscellaneous appeal is partly allowed and the compensation awarded by the tribunal is enhanced from Rs.94,350/- to Rs.1,49,850/- (Rupees one lakh forty nine thousand eight hundred and fifty only). In all other heads, the order of the tribunal stands confirmed. The second respondent/insurance company is directed to deposit the entire award amount with interest @ 7.5% per annum from the date of claim petition till the date of deposit, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the entire amount with accrued interests and costs, without filing any formal application before the Tribunal. The appellant shall pay the



necessary additional court fee, if any, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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/True Copy/

Sd/-

Assistant Registrar(CS-II)

Sub Assistant Registrar(CS-II)

To

The Principal Subordinate Judge,
Principal Subordinate Court,
(Motor Accident Claims Tribunal),
Tirunelveli.

Copy To:

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

+1CC to Mr.T.Selvakumaran, Advocate, SR.No.74531

C.M.A(MD) .No.535 of 2014
23.07.2018

PJL
ES/SV/SAR 2/01.10.2018/3P/5C