



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.07.2018
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.M.A(MD) .No.1049 of 2014

and
M.P. (MD) .No.1 of 2014

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The Manager,
United India Insurance Company Limited,
78, Kamarajar Salai,
Kulithalai Taluk,
Karur District.

... Appellant/
2nd respondent

Vs.

1.B.Mahendran

... 1st respondent /
Petitioner

2.A.Gurusamy

... 2nd respondent /
1st respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in M.C.O.P.No.797 of 2013 on the file of Motor Accident Claims Tribunal / Special Subordinate Court, Tiruchirapalli, dated 07.12.2013.

For appellant	:	Mr.B.Rajesh Saravanan
For 1 st respondent	:	Mr.T.Senthil Kumar
For 2 nd respondent	:	No appearance

JUDGMENT

Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the 1st respondent / Claimant.

2. It is a case of injury. The manner of the accident is not in dispute. The total compensation awarded by the Tribunal is Rs.6,20,642/-. This appeal has been filed by the appellant / Insurance Company only questioning the quantum.

3. The learned counsel appearing for the appellant / Insurance Company would submit that though the claimant has sustained 68% disability, he could carry on some work by sitting and thereby, he could earn and hence, the Tribunal ought not to have passed the award under the head of loss of earnings capacity by adopting multiplier method. Thus, he prayed to set aside the award passed by the Tribunal under the head of loss of earning capacity by adopting multiplier method and to award Rs,3,000/- per percentage of disability, as per the decision of the Hon'ble Supreme Court in



4. The learned counsel appearing for the first respondent would submit that the claimant had sustained multiple grievous injuries on all over his body and also fractures on his right leg and hip. He would further submit that before the accident, he was working as Marketing Executive and earning a sum of Rs.5,000/- p.m. and due to the injuries sustained in the accident, he could not continue his avocation. He would further submit that now, due to infection in the injury, his right leg has been amputated and he cannot move without the help of others. Thus, he prayed to confirm the award passed by the Tribunal.

5. It is seen from the record that before the accident, the claimant was working as Marketing Executive and earning a sum of Rs.5,000/- p.m. Due to accident, the claimant has sustained multiple injuries and fractures in right leg and hip. The doctor has assessed the disability of the claimant as 68%. The doctor, who issued the disability certificate, has categorically stated in his evidence that the claimant is not able to sit or stand with right leg and therefore, he fixed 68% disability. From the said statement, it is clear that the claimant could not continue his avocation. Now, it is submitted by the learned counsel for the claimant that due to infection, the right leg of the claimant is amputated. From the said submission of the learned counsel for the claimant, it is clear that now the situation has become worst. In view of the above, this Court is of the view that the award passed by the Tribunal under the head of loss of earning capacity by adopting multiplier method is perfectly correct and the award passed under the said head need not be interfered with.

6. So far as the award passed by the Tribunal under the other heads are concerned, they are very meagre and hence, they do not warrant any interference at the hands of this Court. Thus, viewing from any angle, the award passed by the Tribunal is liable to be confirmed and accordingly it is confirmed.

7. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

<https://hcservices.thelawsonline.com/Portals/0/Services/Under%20the%20CS%20Judges%20and%20Subordinate%20Judges%20of%20the%20High%20Court%20at%20Tiruchirapalli.pdf>
The Civil Judge,
Motor Accident Claims Tribunal,
Tiruchirapalli.



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

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+1cc to Mr.B.Rajesh Saravanan, Advocate Sr.No.71885
+1cc to Mr.T.Senthil Kumar, Advocate Sr.No.71795

GCG

VB/SKN/RSK/SAR4/03.08.2018/3P/6C

Judgment in
C.M.A(MD) .No.1049 of 2014
09.07.2018