



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1276 of 2014

and

M.P. (MD) .No.2 of 2014

M/s.The Oriental Insurance Company Ltd.,  
through its Branch Manager,  
1548, Tenkasi Road,  
Rajapalayam Town,  
Virudhunagar District.

... Appellant/ 3<sup>rd</sup> respondent

Vs.

1.Utthandan

... 1<sup>st</sup> respondent / Claimant

2.Sathiaseelan

3.K.S.Muthusingapparaja

... Respondents 2 & 3 /  
Respondents 1 & 2

**PRAYER:-** Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in M.C.O.P.No.48 of 2010 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Virudhunagar at Srivilliputhur, dated 07.02.2013.

For Appellant : Mr.C.Ramachandran

For 1<sup>st</sup> respondent : Mr.K.Sudalaiyandi

For respondents 2 & 3 : No appearance

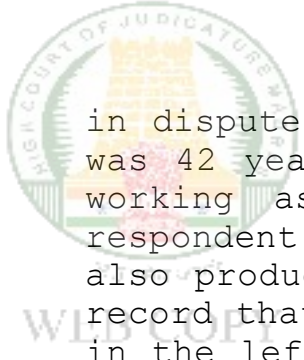
### JUDGMENT

Heard the learned counsel appearing for both sides and perused the records carefully.

2. The appellant / Insurance Company has filed this appeal questioning the multiplier method adopted by the Tribunal for 35% disability suffered by the 1<sup>st</sup> respondent / claimant and also the quantum of compensation awarded by the Tribunal on the other heads.

<https://hcservices.ecourts.gov.in/hcservices/>

3. It is a case of injury. The manner of the accident is not



in dispute. The age of the claimant, at the time of the accident, was 42 years. According to the 1<sup>st</sup> respondent / claimant, he was working as conductor under the third respondent herein / 2<sup>nd</sup> respondent and earning Rs.6,100/- p.m and to that effect, he has also produced a salary certificate - Ex.P15. It is seen from the record that the first respondent / claimant has sustained fracture in the left hip and the movement of the left hip and left knee of the 1<sup>st</sup> respondent / claimant was reduced, due to which the first respondent / claimant lost the capacity of working as a conductor. Though the doctor has given a certificate to the 1<sup>st</sup> respondent / claimant that he has sustained 51% partial permanent disability in the accident, the Tribunal has taken into account only 35% of disability. Considering the age of the claimant and also considering the fact that he lost his avocation due to the disability, this Court is not inclined to interfere with the multiplier method adopted by the Tribunal for awarding the loss of income.

4. At this juncture, the learned counsel for the appellant / Insurance company submitted that the first respondent / claimant was working only as a temporary employee and therefore, the monthly income of Rs.6100/- fixed by the Tribunal needs to be interfered with. This Court is of the view that there cannot be a different treatment for a temporary employee, who lost his avocation. Even the permanent employee may get an alternative job, but, we cannot expect that the said benefit would be extended to a temporary employee. Hence, this contention is rejected.

5. So far as the compensation awarded by the Tribunal on the other heads are concerned, this Court is of the view that the same need not be interfered with as they are reasonably awarded by the Tribunal.

6. In view of the above, this appeal is dismissed. The award passed by the Tribunal is confirmed. The appellant / Insurance Company is directed to deposit the entire award amount with accrued interests and costs within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the 1<sup>st</sup> respondent / claimant is permitted to withdraw the deposited amount, if any, with accrued interests and costs, without filing any formal petition before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

/True Copy/



To

The Chief Judicial Magistrate,  
Motor Accident Claims Tribunal,  
Srivilliputhur.

WEB COPY

Copy to:

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

+ 1 cc TO Mr.K.Sudalaiyandi , Advocate in SR No. 62288  
+ 1 cc TO Mr.C.Ramachandran , Advocate in SR No. 62818

gcg

AE/JC/SAR2/22.05.2018/3P/6C

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