



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2018

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.647 of 2014

and

M.P(MD)No.1 of 2014

The Manager,
ICICI Lombard General Insurance Company,
Ramanatha Hospital,
Trichy Road,
Thanjavur.

... Appellant/2nd Respondent

Vs.

1.S.Senthilkumaran ... 1st Respondent/Petitioner

2.R.Murugesan ... 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order, dated 30.04.2012 made in M.C.O.P.No.541 of 2008 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Court), Thanajvur.

For Appellant : Mr.S.Srinivasa Raghavan

For R - 1 : Mr.M.Karunanithi

For R - 2 : No appearance

JUDGMENT

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

The Insurance Company, who is the second respondent in the M.C.O.P, is the appellant.

2.A claim was made by the first respondent for the disability, loss of income and future prospects by him out of the accident that happened on 17.01.2008.

3.Sofar as the point of negligence is concerned, the findings of the Tribunal is confirmed.



4. It is only the quantum which is now under challenge in this appeal.

5. The claimant was employed as constable in the Transport Section as evidenced by documents Exs.P.29 to P.32. It is seen from Ex.P.32 that there was a recommendation by the Superintendent of Police to the medical board to certify whether the claimant is fit to continue in the Police Department, but in the report given by the Board on 25.01.2011, it is certified that the claimant is unfit to continue in the Police service and as such, he was removed from service, without offering him an alternate employment. At the time of accident, the claimant was earning a sum of Rs.10,000/- per month. So, considering the future prospects and also the fact that there is a crush injury in the leg, the Tribunal had awarded for the permanent disability and the loss of income and future prospects, a sum of Rs.8,10,900/-. The Tribunal had taken Rs.7,500/- as monthly income and considering the age of the claimant on the date of accident as 32 and applied multiplier '17', the above sum has been arrived at. The said sum awarded is towards the loss of income. Considering the fact that despite the salary has been shown as Rs.10,000/- per month, there is no reason given to reduce the same to Rs.7,500/-. So far as the award amount under other heads are concerned, under the column pain and suffering only Rs.30,000/- has been awarded. The admitted fact is that as it is crush injury in the leg, he is unfit for employment and it is also admitted that he lost his teeth in the accident. The Tribunal, however, had not awarded any amount for the mental agony. So considering the fact that the award amount under the head pain and suffering is less and as there is no specific amount awarded under the head mental agony, this Court is inclined to increase the amount granted for pain and suffering to Rs.50,000/- and a sum of Rs.48,000/- for the mental agony. The other compensation granted under the heads of nutrition and transport and for medical expenses, which are awarded based on the actual expenses incurred including the fixture of the artificial teeth, are not altered. The amount awarded towards disability of teeth and partial disability are adjusted and converted under the head of mental agony and for pain and sufferings. The award of the Tribunal is confirmed as it is by only altering the heads under which the same is awarded.

6. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award, dated 30.04.2012 made in M.C.O.P.No.541 of 2008 passed by the Motor Accident Claims Tribunal (Principal Subordinate Court), Thanajvur. The appellant/Insurance company is directed to deposit the aforesaid award amount within a period of six weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. The claimant is permitted to withdraw the above said award amount with accrued interest and costs, less the amount withdrawn if any, by making necessary



application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

WEB COPY/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Motor Accident Claims Tribunal
(Principal Subordinate Judge),
Thanajvur.

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

+1cc to Mr.S.Srinivasa Raghavan, Advocate Sr.No.77671

+1cc to Mr.M.Karunanithi, Advocate Sr.No.77602

PS

VB/RP/SAR4/29.08.2018/3P/6C

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