

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 02.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

C.M.A. (MD) No.998 of 2017**and****C.M.P (MD) No.10320 of 2017**
& C.M.P (MD) No.2508 of 2018

Manager,
Cholamandalam General Insurance Co. Ltd.,
Dare House, 2nd Floor, Door No.2,
N.S.C.Bose Road,
Chennai-600 001.

... Appellant/Respondent-2

Vs.

1.Natarajan

...Respondent/Petitioner

2.S.Suresh

... Respondent/Respondent-1

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.1121 of 2013, dated 27.01.2016 passed by the Motor Accident Claims Tribunal (Special Sub Court for MCOP Cases), Thanjavur.

For Appellant	: Mrs.K.R.Shiva Shankari
For R1	: Mr.S.Raja Prabu
For R2	: No appearance

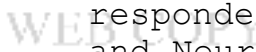
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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company against the award, dated 27.01.2016, made in M.C.O.P.No.1121 of 2013, passed by the Motor Accident Claims Tribunal (Special Sub Court for MCOP Cases), Thanjavur.

2.The appellant/Insurance Company filed the present appeal challenging the award of the Tribunal with regard to quantum of compensation granted to the first respondent.

3.According to the learned counsel appearing for the appellant, the Tribunal erred in fixing the disability of 76%, taking into consideration of the disability certificate given by two doctors and awarded excessive amounts. The amounts awarded by the Tribunal under the heads of pain and suffering, extra nourishment and loss of income, are excessive. He further contended that when the doctor has certified that the first respondent/claimant suffered disability in particular part of the body, that cannot be taken as disability for the entire body. The percentage of disability has to be reduced to arrive at loss of



8. The contention of the learned counsel for the appellant that the Tribunal granted excessive amounts towards pain and suffering, extra nourishment and loss of income has considerable force. A sum of Rs.75,000/- granted towards pain and suffering is excessive. The same is reduced to Rs.50,000/-. Before the Tribunal, no evidence was produced by the first respondent to show that the nature of business carried on by the first respondent and his earning. In the absence of such evidence, the Tribunal fixed the monthly income of the first respondent at Rs.7,500/- and



awarded a sum of Rs.45,000/- for six months as loss of income. The monthly income fixed by the Tribunal is reduced to Rs.6,000/- per month and compensation for loss of income is granted for three months at the rate of Rs.6,000 x 3 = 18,000/-, as there was no evidence to show that he could not do business for six months and he did not earn any amount during that period. The amounts awarded under the other heads are confirmed.

9. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

10. In view of the settled position of law, this Court modifies the award of the Tribunal by reducing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For partial permanent disability	2,28,000	2,28,000	confirmed
2.	For Medical expenses	91,540	91,540	confirmed
3.	For pain and suffering	75,000	50,000	reduced
4.	For extra nourishment	30,000	30,000	confirmed
5.	For Attendant charges	1,000	1,000	confirmed
6.	For Transportation	6,000	6,000	confirmed
7.	Loss of income	45,000	18,000	reduced
	Total	Rs.4,76,540	Rs.4,24,540	By reducing a sum of Rs.52,000/-

11. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, reducing the award of the Tribunal from Rs.4,76,540/- (Rupees Four Lakhs Seventy Six Thousand Five Hundred and Forty only) to a sum of **Rs.4,24,540/-** (Rupees Four Lakhs Twenty Four Thousand Five Hundred and Forty only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;



(ii) The appellant Insurance Company is directed to deposit the said amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.1121 of 2013, on the file of the Motor Accident Claims Tribunal (Special Sub Court for MCOP cases), Thanjavur, within a period of **eight weeks** from the date of receipt of copy of this judgment;

(iii) On such deposit being made, the first respondent/claimant is entitled to withdraw the amount, less the amount already withdrawn, if any, with interest and costs by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Motor Accident Claims Tribunal,
(Special Sub Court for MCOP Cases),
Thanjavur.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1CC TO MR.S.SRINIVASA RAGHAVAN, Advocate Sr. No. 94291

C.M.A. (MD) No.998 of 2017
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TR (06.03.2019) 4P 5C