



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) .No.847 of 2016

and

C.M.P. (MD) .No.7939 of 2016

The Branch Manager,
National Insurance Co. Ltd.,
706, 1st Floor, Tenkasi Road,
Rajapalayam Taluk,
Virudhunagar District.

.. Appellant/ Respondent

Vs.

1. Pooesakki

.. Respondent No.1 / Petitioner

2. Jeyaraj

(Given up)

.. Respondent No.2 / Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 20.11.2015 made in MCOP No.66 of 2010 on the file of the Motor Accidents Claims Tribunal, the Subordinate Judge, Srivilliputhur.

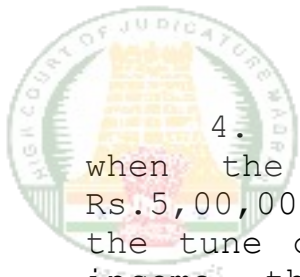
For Appellant	: Mr.N.S.Ramakrishna Dass
For Respondent No.1	: Mr.M.Thirunavukarasu
For Respondent No.2	: Given up

JUDGMENT

Challenging the judgment and decree passed by the learned Subordinate Judge, Motor Accident Claims Tribunal, Srivilliputhur, in M.C.O.P.No.66 of 2010, dated 20.11.2015, the instant appeal has been preferred by the appellant/insurance company.

2. Heard both sides and perused the records carefully.

3. It is a case of injury. The tribunal has awarded a sum of Rs.7,37,800/- as compensation. The manner of accident is not disputed. The appellant/insurance company has preferred this appeal against quantum.



4. The learned counsel for the appellant would state that when the injured has restricted his claim to a sum of Rs.5,00,000/-, the tribunal has awarded excessive compensation to the tune of Rs.7,37,800/- and even without any proof of monthly income, the tribunal has taken Rs.6,500/- as monthly income and calculated the compensation. Hence, the appellant has filed this petition to reduce the compensation awarded by the Tribunal.

5. It is seen from the records that the injured/claimant sustained multiple injuries. From the Doctor's evidence (P.W.2), the injured sustained grievous injury in the right shoulder as well as in the head, in respect of the same he has produced Ex.P.8, discharge summary. Perusal of the same shows that the injured was having multiple injuries and fractures in the right scapula and clavicle, fractures in Right Zygoma & Temporal bones, Bitemporal and perisylvian contusions (Lt>Rt) and Right Anterior Temporal Subdural Hematoma. P.W.2 deposed in his evidence that the injuries sustained by the injured are grievous in nature and he has also stated about the difficulties experienced by the injured in discharging his day to day activities. Therefore, the learned Judge ought to have taken the disability as 100%. But the Tribunal has taken 52% of disability only. Since the injured was a coolie at the time of accident, the tribunal has taken Rs.6,500/- as monthly income, based on the judgment of the Hon'ble Supreme Court, in **2014 (1) TN MAC 459 (SC)** in the case of **Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd.**, in which it has been held that the reasonable monthly income of a labour in an unorganized sector doing his own business would be Rs.6,500/-. Therefore, in my considered opinion, the income taken by the tribunal is reasonable. With regard to other heads, by taking into consideration the nature of the injuries sustained by the injured/claimant and also comparing the affliction faced by the injured and the amount awarded, which, in my considered opinion, is very meagre.

6. The learned counsel for the appellant/insurance company would submit that the claimant had claimed only Rs.5,00,000/- but the tribunal has awarded excessive amount as compensation. The learned counsel for the first respondent would submit that in certain cases, for want of payment of Court fee, the claimants are not in a position to claim their maximum benefits and in the present case, the condition of the injured is very pitiable one and he had become a burden to his family, due to the said accident and the amount awarded would help him for his survival and prayed for dismissal of this petition.

7. Considering these circumstances of the case, the amount awarded by the Tribunal does not warrant any interference and accordingly, the appeal is dismissed. The award passed by the tribunal in M.C.O.P.No. 66 of 2010 dated 20.11.2015, is hereby



confirmed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant 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 claimant is permitted to withdraw the entire amount without filing any formal application before the Tribunal.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Srivilliputhur.

Copy to

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

+1cc to Mr.N.S.Ramakrishna Dass, Advocate Sr.No.70211
+1cc to Mr.M.Thirunavukarasu, Advocate Sr.No.70003

PJL

VB/KAK/SAR1/20.08.2018/3P/6C

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