



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.668 of 2014

and

C.M.P.(MD).Nos.1 of 2014 and 3064 of 2018

The National Insurance Company Limited,
through its Divisional Manager,
Tenkasi Road,
Rajapalayam

... Appellant/
2nd respondent

Vs.

1.Vignesh

... 1st respondent /
Claimant

2.Jeyakumar

... 2nd respondent /
1st respondent

(1st respondent herein was declared as Major and discharged his guardianship, as per the order of the Court, dated 14.03.2018, in M.P.Nos.1566 & 1567 of 2018)

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree made in M.C.O.P.No.10 of 2013 on the file of Motor Accident Claims Tribunal (Additional District Court), Virudhunagar, dated 10.12.2013.

For Appellant : Mr.J.S.Murali

For 1st respondent : Mr.S.M.Mohan Gandhi

For 2nd respondent : No appearance

JUDGMENT

Heard the learned counsel for both sides and perused the records carefully.
<https://hcservices.ecourts.gov.in/hcservices/>

2. The appellant / Insurance Company has filed this appeal



questioning the multiplier method adopted by the Tribunal for 51% disability suffered by the 1st respondent / claimant and also the quantum of compensation awarded by the Tribunal on the other heads.

3. The manner of the accident is not in dispute. The age of the claimant, at the time of the accident, was 17 years and he has sustained 51% partial disability in the accident. The Tribunal, by taking Rs.2,000/- as notional income and adopting the multiplier method, has awarded a sum of Rs.1,95,840/- towards loss of income. Considering the age of the claimant and the percentage of the disability, this Court is of the view that the multiplier method adopted by the Tribunal need not be interfered with.

4. As far as the compensation awarded by the Tribunal on the other heads are concerned, they are as follows:

Pain and sufferings	Rs. 40,000/-.
Medical attendance	Rs. 12,000/-
Transport expenses	Rs. 3,000/-
Nutritional expenses	Rs. 10,000/-
Loss of amenities & happiness	Rs. 20,000/-
Medical expenses	Rs. 24,145/-
Damage to the clothes	Rs. 2,000/-

It is submitted by the learned counsel for the appellant that as the Tribunal has already awarded a sum of Rs.40,000/- towards the pain and sufferings, the Tribunal ought not to have awarded compensation towards loss of amenities and happiness. The said submission of the learned counsel for the appellant is acceptable. Therefore, the compensation awarded by the Tribunal under the head of loss of amenities and happiness is set aside. Insofar as 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.

5. Accordingly, the total compensation awarded by the Tribunal is reduced from Rs.3,06,985/- to Rs.2,86,985/-. In other respects, 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, less the amount already deposited, if any, and on such deposit being made, the 1st respondent / claimant is permitted to withdraw the deposited amount, with accrued interests and costs, without filing any formal petition before the Tribunal. The appellant / Insurance Company is at liberty to recover the amount from the second respondent / 1st respondent as per the decision of the Hon'ble Supreme Court in *Nanjappan Vs. Oriental Insurance Company*, reported in 2003(1)L.W. 77.

6. This Civil Miscellaneous Appeal is, accordingly, partly



allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (W)

/True copy/

WEB COPY

Sub Assistant Registrar

To

The Additional District Judge,
The Motor Accident Claims Tribunal,
Additional District Court, Virudhunagar.

Copy to:

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

+1cc to Mr.J.S.MURALI, Advocate, SR.No. 60610
+1cc to Mr.S.M.MOHAN GANDHI, Advocate, SR.No. 60597

C.M.A (MD) .No.668 of 2014
10.04.2018

GCG
KK/SKN RSK/SAR-1/08.06.2018/3P-6C