



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.165 of 2013

M.Manikandan

... Appellant/Petitioner

Vs.

1.S.Nallaswamy

2.The Oriental Insurance Company Ltd.,

Rep. by its Branch Manager,

Vadasery,

Opp. to Christopher Bus Stand,

Nagercoil,

Nagercoil Village,

Agasteeswaram Taluk,

Kanyakumari District.

... Respondents /Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.332 of 2009 on the file of 1st Additional Motor Accident Claims Tribunal, Nagercoil dated 28.04.2010.

For Appellant : Mr.T.Selvakumaran

For R.2 : Mr.K.Bhaskaran

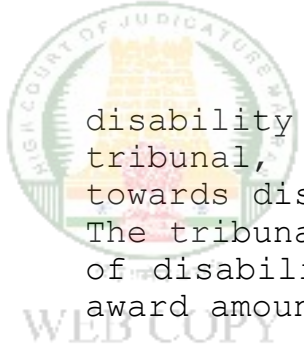
JUDGMENT

Assailing over the judgment and decree passed by the 1st Additional Motor Accident Claims Tribunal, Nagercoil, in M.C.O.P.No.332 of 2009 dated 28.04.2010, the present civil miscellaneous appeal has been filed.

2. Heard both sides and perused the records carefully.

3. It is a case of injury and the claimant/injured, being dissatisfied with the compensation of Rs.75,000/- awarded by the tribunal, is before this Court, seeking enhancement. According to the appellant/claimant, he was doing agricultural works and earning about Rs.4,000/- per month and in consequence to the accident, which is not disputed, the appellant sustained several fractures and had also undergone surgery, therefore, the tribunal was not justified in awarding a meagre sum of Rs.75,000/- as compensation.

4. It is seen from the records that the appellant/claimant sustained multiple fractures; injuries all over the body and has also undergone surgery. From the Doctor's evidence, it is seen that



disability was assessed as 10% and from the award passed by the tribunal, it is seen that the tribunal has awarded Rs.10,000/- towards disability, which, in my considered opinion, is very meagre. The tribunal ought to have ordered atleast Rs.3,000/- per percentage of disability and therefore, this Court is inclined to enhance the award amount under that head.

5. Since 10% disability has been assessed, the compensation towards disability is enhanced from Rs.10,000/- to Rs.30,000/-, i.e., a sum of Rs.20,000/- is enhanced towards disability. The compensation awarded under all the other heads are quite reasonable and therefore, they are confirmed. The rate of interest at 7.5% awarded by the tribunal is sustained.

6. In result, this civil miscellaneous appeal is allowed and the compensation awarded by the tribunal is enhanced from Rs.75,000/- to Rs.95,000/- [Rs.20,000/- enhanced towards disability]. In all other heads, the order of the tribunal stands confirmed. The respondents are directed to deposit the sum of Rs.95,000/- [Rupees Ninety Five Thousand only] towards compensation, 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 appellant/claimant is permitted to withdraw the entire amount with accrued interests and costs, without filing any formal application before the Tribunal. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The 1st Additional Motor Accident Claims Tribunal,
Nagercoil.

Copy to:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai (2 Copies)

+1CC to Mr.T.Selvakumaran, Advocate, SR.No. 59885

+1CC to Mr.K.Bhaskaran, Advocate, SR.No. 59625

C.M.A(MD).No.165 of 2013
04.04.2018