



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.07.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.235 of 2013

Branch Manager,
The Oriental Insurance Company Ltd.,
Kanchipuram.

... Appellant/2nd Respondent

vs.

1) Thiru.K.J.Lenin
2) M/s.Bharudan Dugar Finance Limited,
Meenambakkam,
Chennai.

... 1st Respondent/ Petitioner

3) Thiru.K.Premkumar
4) Branch Manager,
National Insurance Company Limited,
Chennai.

... 2 to 4 Respondents/1,2 & 4 Respondents

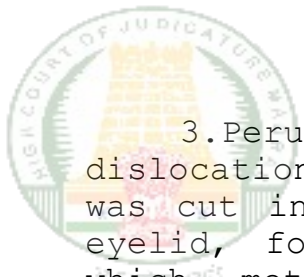
Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment made in M.C.O.P.No.227/2009 dated 16.06.2012 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Thanjavur at Kumbakonam.

For Appellant : Mr.K.Bhaskaran
For R1 : Mr.M.V.Santharaman
For R4 : Mr.R.Srinivasan
For R3 : No appearance

JUDGMENT

This appeal has been filed against the decree and judgment made in M.C.O.P.No.227/2009, dated 16.06.2012, on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Thanjavur at Kumbakonam.

2.In an accident which occurred on 04.02.2006, the 1st respondent/claimant sustained fracture of left shoulder and other injuries. He made a claim in M.C.O.P.No.227/2009 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Thanjavur at Kumbakonam, claiming compensation of Rs.6,00,000/-. Resisting the claim petition, the appellant filed counter denying the manner of accident. Considering the oral and documentary evidence adduced on either side, the Tribunal awarded compensation of Rs.98,233/- with 7.5% per annum from the date of claim. Aggrieved by the said award, the appellant has filed this appeal. Though the appellant filed this appeal challenging negligence and quantum, learned counsel for the appellant restricted his submission only to quantum of compensation.



3. Perusal of record shows that due to fracture, there was dislocation of the right forearm of the 1st respondent and that there was cut injury over the left side face extending upto left upper eyelid, for which, he underwent operation on 06.02.2006, during which, metallic plates were fixed on two places of the shoulder shaft of the 1st respondent. Due to the above injuries, the 1st respondent took treatment between 04.02.2006 and 10.02.2006 as inpatient.

4. The Doctor who issued the disability certificate has been examined as PW2, who has deposed that due to the fracture of left shoulder, there is a reduction in the movement. Considering the fact that the 1st respondent/claimant is a weaver working in Dharasuram Silk Handloom Co-operative Society and fracture of left shoulder would affect his avocation more, the Tribunal has awarded Rs.50,000/- towards partial loss of income. Apart from the above, a sum of Rs.12,000/- has been awarded towards permanent disability by awarding Rs.1,000/- for each percentage of disability. As per the judgment of this Court in National Insurance Company Limited vs. G.Ramesh, reported in 2013 (2) TN MAC 583, the claimant should be awarded with Rs.3,000/- for each percentage of disability. Further, a sum of Rs.10,000/- towards pain and suffering, Rs.2,000/- towards nutrition, Rs.2,000/- towards transportation and Rs.22,233/- towards medical expenses have been awarded. Altogether, a sum of Rs.98,233/- has been awarded with interest at 7.5% per annum.

5. Having regard to the nature of injuries and period of treatment, this Court is of the considered opinion that the award amount under all heads is very low and therefore, this Court is not inclined to interfere with the same.

6. The appellant is directed to deposit entire award amount with interest and costs, less the amount already deposited, if any, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the same without filing any formal petition before the Tribunal.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

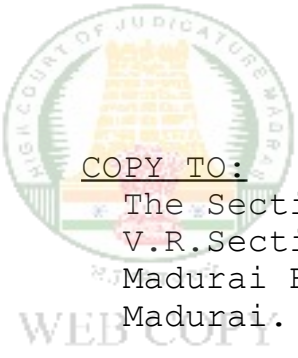
Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Thanjavur at Kumbakonam.

COPY TO:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.R.Srinivasan, Advocate SR.No. 73191
+1cc to M/S.T.R.Subramanian, Advocate SR.No. 72976
+1cc to M/S.K.Bhaskaran, Advocate SR.No. 73232

CMA(MD) No.235 of 2013
16.07.2018

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JM/SKN RSK/SAR 4/13.08.2018/3P/7C