

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 27.06.2018****CORAM****WEB COPY****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A (MD) .No.248 of 2013**

C.Pandi

.. Appellant/Petitioner

Vs.

1. M.Harihara Uma Sankar
(Exparte in tribunal)

2. M/s.National Insurance Company Ltd.,
through its Divisional Manager,
3, North Veli Street,
Madurai- 625 001.

.. Respondents /Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.12.2010, made in MCOP No.955 of 2006 on the file of the learned Additional District Judge, Motor Accident Claims Tribunal (Fast Track Court No.I), Madurai.

For Appellants	: Mr.N.V.Sureshkumar
For Respondent No.1	: dispensed with
For Respondent No.2	: Mr.N.Murugesan

JUDGMENT

This civil miscellaneous appeal has been filed against the judgment and decree passed by the learned Additional District Judge, Fast Track Court No.I, Motor Accidents Claims Tribunal, Madurai, in M.C.O.P.No.955 of 2006 dated 09.12.2010.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent and perused the records carefully.

3. It is a case of injury and the appellant/claimant, being dissatisfied with the compensation of Rs.1,54,000/- awarded by the tribunal, is before this Court, seeking enhancement. According to the appellant, he was aged about 37 years at the time of accident and was a vegetable merchant, earning not less than Rs.500/- per day. Other than that, he was also working as a labour/Spinner in Sri. Meenakshi Mills, Paravai, Madurai, earning about Rs.6,400/- per month. Due to the accident in question, which is not disputed, he sustained grievous injuries, however, the Tribunal has awarded



only a minimal sum. Therefore, he prays for interference of this Court.

4. On a perusal of the records, it is seen that due to the accident in question, the appellant sustained grievous injuries and also sustained fractures in left femur, left clavicle, lacerated injury in left foot, etc., for which, he underwent several surgeries and plates were also fixed and later removed. It is seen that P.W.4, Medical Practitioner (Ortho), who treated the injured, has assessed the disability at 30% and P.W.5, Medical Practitioner (Neuro) has assessed the disability at 37%.

5. The Tribunal, however, by taking into consideration the documents placed on record, has assessed the disability at 30% and has awarded a sum of Rs.74,000/- as compensation towards disability, which in the opinion of this Court is very meagre, comparing to the affliction faced by the injured and therefore, the same deserves interference at the hands of this Court.

6. According to the injured, he was earning a sum of Rs.6,000/- per month. However, no evidences were adduced to that effect. The Hon'ble Supreme Court, in the decision reported in **2014 (1) TN MAC 459 (SC)** in the case of **Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd.**, has held that the reasonable monthly income of a labour in an unorganized sector doing his own business would be Rs.6,500/-. In the present case on hand, the appellant is engaged in agricultural activities as well as a labour in a private firm. It is seen that the injured was 37 years at the time of accident. Therefore, in the case on hand, if the income is notionally taken as Rs.4,500/- per month, and if multiplier method is adopted with future prospects and other appropriate principles are followed for the 30% permanent disability suffered by the injured, it is a simple math that overall compensation will be on the higher side, however, the appellant/injured restricted his claim to a sum of Rs.2,50,000/- which in the opinion of this Court is very reasonable, and therefore, the same is accordingly ordered.

7. In such a view of the matter, the civil miscellaneous appeal is partly allowed and the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.4,04,000/- [Rs.1,54,000/- awarded by the tribunal + Rs.2,50,000/- enhanced by this Court]. The second respondent/insurance company is directed to deposit the sum of Rs.4,04,000/- [Rupees Four Lakhs Four Thousand only] towards compensation, with interest at the rate of 7.5% p.a., and costs, excluding the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. In other respects, the award stands confirmed. On such deposit, the appellant is permitted to withdraw the entire award amount,



without filing any formal application before the Tribunal. There shall be no order as to costs. The appellant shall pay the necessary additional court fee, if any.

Sd/-

Assistant Registrar(CS-II)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.1,
Madurai.

Copy to

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

+1cc to Mr.N.V.Sureshkumar, Advocate Sr.No.70108
+1cc to Mr.N.Murugesan, Advocate Sr.No.70063

PJL

VB/RSK/SAR1/26.07.2018/3P/6C

C.M.A (MD) .No.248 of 2013
27.06.2018