



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) .Nos.1334, 1335 and 1336 of 2011
and
M.P. (MD) .Nos.1,1 and 1 of 2011

M/s. United India Insurance Company Limited,
12-A, Covai Road,
P.L.A., Building 2nd Floor,
Karur- 639 002.

.. Appellant/Respondent No.2
in all appeals

Vs.

K.Veeramani

.. 1st Respondent/ Petitioner
in CMA (MD) .No.1334/2011

M.Manickam

.. 1st Respondent/ Petitioner
in CMA (MD) .No.1335/2011

P.Jothimani

.. 1st Respondent/ Petitioner
in CMA (MD) .No.1336/2011

P.Ramasamy

.. 2nd Respondent /1st Respondent
in all appeals

(Notice against R2 dispensed with;
since exparte in Tribunal)

COMMON PRAYER:- Appeals filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree made in MCOP Nos.151, 152 and 154 of 2010, respectively, dated 28.06.2011, on the file of Motor Accident Claims Tribunal (Sub Court), Kulithalai.

In all appeals:

For Appellant : Mr.K.Murugesan
For Respondent No.1 : Mr.N.Sudhakar Nagaraj
For Respondent No.2 : Notice dispensed with

COMMON JUDGMENT

As the issue involved in all these appeals is one and the same, they are disposed of by way of this common judgment.

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2. For the sake of convenience, the claimants/first respondents



in all the three appeals are being referred to by their names.

3. Assailing over the common judgment passed by the Motor Accident Claims Tribunal, (Sub Court), Kulithalai, in M.C.O.P.Nos.151,152 and 154 of 2010, respectively, dated 28.06.2011, the present civil miscellaneous appeals have been filed on the ground of quantum.

4. Heard both sides and perused the records carefully.

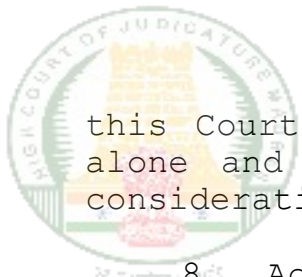
5. It is a case of injury. On 23.08.2009, when the appellants in C.M.A.(MD)Nos.1334, 1335 and 1336 of 2011, travelled in the private bus owned by the first respondent and insured with the appellant herein at Trichy-Karur Main Road dashed at a lorry near SRS bridge. In consequence of the accident, the claimants got injured. All the claimants herein have individually filed claim petitions before the tribunal and the tribunal has awarded a sum of

- Rs.1,55,000/- as compensation for K.Veeramani ;
- Rs.1,86,200/- as compensation for M.Manickam; and
- Rs.1,69,400/- as compensation for P.Jothimani.

Being dissatisfied with the compensation awarded by the tribunal, the appellant/insurance company is before this Court, seeking to reduce the amount awarded by the tribunal.

6. The learned counsel for the appellant would submit that the manner of accident as well as the percentage of disability are not disputed. Due to the accident, K.Veeramani (40 years) sustained 32% disability; M.Manickam (26 years) sustained 35% disability and P.Jothimani (30 years) sustained 35% disability, for which, the tribunal had taken the disability as 15%, 15% and 15% respectively and awarded compensation by adopting multiplier method, and therefore, the same warrants interference. Further, the learned counsel for the appellant would fairly conceded that the a sum of Rs.3,000/- per percentage may be given for the disability as assessed by the Doctor/P.W.4 and as per the disability certificate, instead of adopting multiplier method.

7. It is seen from the records that the claimants sustained multiple fractures and injuries all over the body and due to the impact of the accident, the claimants are not able to do any hard work. From the Doctor's/P.W.4 evidence, it is seen that the disability was assessed as 32%, 35% and 35% respectively. Though no contra evidence was adduced by the other side, the Tribunal has reduced the percentage of disability and assessed the same as 15% for each claimants, on its own, and also adopted multiplier method for assessing compensation towards disability, therefore, the claimants pray for interference on that score. There is some force in the submission made by the learned counsel for the claimants and therefore, in my considered opinion, it would be appropriate and reasonable that if Rs.3,000/- per percentage of disability is awarded as per the judgment reported in 2013(2)TNMAC 583 in the case of **National Insurance Company Ltd., vs. G.Ramesh**, and therefore,



this Court is inclined to modify the award amount under that head alone and accordingly, the evidence of the Doctor is taken into consideration as to the disability percentage.

8. Accordingly, the compensation awarded by the tribunal towards loss of income is modified as follows:

Claimants / Injured	Head	Compensation awarded by the tribunal	Compensation fixed by this Court	Difference in Compensation / Amount reduced by this Court
K.Veeramani	Loss of income	$\text{Rs.}4000 \times 12 \times 15 \times 15 / 100$ =Rs.1,08,000/-	$\text{Rs.}3,000/- \times 32$ =Rs.96,000/-	Rs.12,000/-
M.Manickam		$\text{Rs.}4500 \times 12 \times 15 \times 17 / 100$ =Rs.1,37,700/-	$\text{Rs.}3,000/- \times 35$ =Rs.1,05,000/-	Rs.32,700/-
P.Jothimani		$\text{Rs.}4000 \times 12 \times 17 \times 15 / 100$ =Rs.1,22,400/-	$\text{Rs.}3,000/- \times 35$ =Rs.1,05,000/-	Rs.17,400/-

9. On a perusal of the judgment and decree of the tribunal, this Court feels that other than the above said head, the compensation awarded by the tribunal is fair and reasonable and therefore, the same does not warrant any interference.

10. Hence, the total compensation awarded by the tribunal for each claimants are modified as follows:

- for K.Veeramani, (1st respondent in C.M.A(MD).No.1334 of 2011) the compensation amount is fixed at **Rs.1,43,000/-** [Rs.1,55,000/- - Rs.12,000/- (reduced by this Court)] instead of Rs.1,55,000/- ;
- for M.Manickam, (1st respondent in C.M.A(MD).No.1335 of 2011) the compensation amount is fixed at **Rs.1,53,500/-** [Rs.1,86,200/- + Rs.32,700/- (reduced by this Court)] instead of Rs.1,86,000/- and
- for P.Jothimani (1st respondent in C.M.A(MD).No.1336 of 2011), the compensation amount is fixed at **Rs.1,52,000/-** [Rs.1,69,400/- + Rs.17,400/- (reduced by this Court)] instead of Rs.1,69,400/-.

11. In the result, the Civil Miscellaneous Appeals are partly allowed and the appellant/insurance company is directed to deposit the entire compensation amount awarded by this Court with interest at the rate of 7.5% per annum, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw the same with accrued interests and costs



without filing any formal application before the Tribunal and if the entire compensation awarded by the tribunal, has already been deposited, then the appellant/insurance company is at liberty to withdraw the excess amount. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Sub Court,
Kulithalai,
Karur District.

Copy To:-

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

+ 3 CC TO Mr.K.MURUGESAN, ADVOCATE IN SR No. 73644 to 73646

+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 73664

PJL

TE/RSK/SAR-2 : 26/09/2018 : 4P/8C

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