



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.266 of 2014

The Manager,
National Insurance Company Limited,
12, Muruga Complex,
K.K. Road, Villupuram.

... Appellant/2nd Respondent

vs.

1)Ranjithkumar ...1st Respondent/Petitioner
2)Jeyachandran ...2nd Respondent/Ist Respondent
(Notice to 2nd respondent may be dispensed with since he remained
exparte before the Tribunal)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988,
against the judgment and decree in MCOP.No.2134 of 2009 dated
15.03.2013 on the file of the Motor Accidents Claims Tribunal, III
Additional Subordinate Court, Tiruchirappalli.

For Appellants : Mr.J.S.Murali
For R1 : Mr.N.Sudhagar Nagaraj

JUDGMENT

Challenging the quantum of compensation, the insurer has filed
this appeal.

2.Learned counsel for the appellant would contend that fixation
of disability percentage at 75% is on the higher side and without
any discussion, the Tribunal has erroneously adopted the multiplier
method when there is no evidence to prove that the injured has
completely lost his avocation. It is further contended that the
Tribunal has awarded excessive sum of Rs.25,000/- towards pain and
sufferings. Thus, he prayed for allowing this appeal.

3.Per contra, learned counsel for the 1st respondent/claimant
would contend that the claimant sustained fracture in the right hand
and due to crush injuries, the right foot of the claimant has been
amputated, due to which, the claimant has completely lost his
avocation as welder and therefore, the application of multiplier
method for computing loss of income cannot be questioned and
further, there is no award for future prospects and therefore, he
would state that the award amount being meagre, the interference of
this Court is not required.



4. Heard the learned counsel for the appellant as well as the 1st respondent.

5. Perusal of record shows that the 1st respondent/claimant has sustained fracture in the right hand and amputation of right foot. The claimant appeared before this Court personally and he entered into the Court with the help of Handicap Underarm Crutches Support Stick and on the physical appearance of the claimant, this Court was able to see the amputation of right foot. The very appearance of the claimant itself showed that he could not continue his avocation as Welder thereby, there is 100% functional disability. The Tribunal fixing the monthly income of the claimant at Rs.4,500/- notionally, after deducting 1/3rd towards the personal expenses and applying 17 multiplier, has awarded Rs.4,59,000/- towards loss of income. Apart from the above, a sum of Rs.69,448/- towards medical bills; Rs.50,660/- towards cash bill; Rs.25,000/- towards pain and suffering; Rs.5,000/- towards attendant charges; Rs.1,000/- towards damage to clothes and Rs.10,000/- towards nutrition has been awarded. Altogether, the Tribunal has awarded compensation of Rs.6,20,008/- with 7.5% interest per annum from the date of claim petition till the date of deposit.

6. The claimant was aged 29 years at the time of accident and he is a Welder by avocation and the injuries and amputation made him to be idle for the rest of his life time and he has completely lost his avocation. Therefore, in my considered opinion, the award passed by the Tribunal cannot be said to be excessive warranting interference.

7. It is represented that pursuant to the interim order of stay, the appellant has deposited the entire amount and the 1st respondent/claimant was also permitted to withdraw Rs.2,50,000/- with interest. Therefore, the 1st respondent/claimant is permitted to withdraw the balance amount with accrued interest without filing formal permission petition before the Tribunal.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

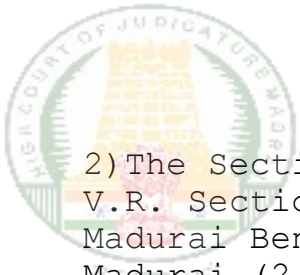
Assistant Registrar (CS III)

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Sub Assistant Registrar (CS)

To

1) The III Additional Subordinate Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Motor Accidents Claims Tribunal,
Tiruchirappalli.



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

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+1cc to Mr.J.S.MURALI,Advocate, SR.No.71654

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