



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2019

CORAM:

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THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

C.M.A(MD) No.695 of 2018

and

C.M.P(MD) Nos.8030 & 12245 of 2018

United India Insurance Company Limited,
Kattumannarkovil,
represented by its Branch Manager,
5A, Vetri Residency, Sivankovil Sannathi Street,
Opposite Bus Stand,
Katturmanner Kovil Taluk.

: Appellant/Second respondent

Vs.

- 1.Pal Pandian @ Pandian ...1st Respondent/Petitioner
- 2.Anwardeen ...2nd Respondent/1st Respondent
- 3.Dharmaraj ... 3rd Respondent/3rd Respondent
- 4.The Oriental Insurance Company Limited,
Kumbakonam,
represented by its Regional Manager,
1st Floor, Gopalrao Library Building,
Town Hall Road,
Kumbakonam. ... 4th Respondent/4th Respondent

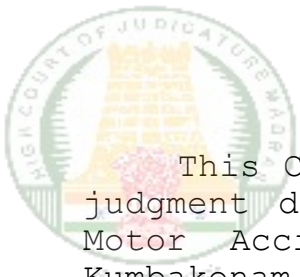
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act,1988, to set aside the judgment and decree passed by the Motor Accidental Claims Tribunal, Principal Subordinate Court, Kumbakonam, made in M.C.O.P.No.299 of 2015 dated 20.02.2018.

For Appellant : Mr.J.S.Murali

For R1 : Mr.B.Anandan

For R2 & R3 : ex parte

For R4 : No appearance

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed to set aside the judgment dated 20.02.2018 passed in M.C.O.P.No.299 of 2015 by the Motor Accidental Claims Tribunal, Principal Subordinate Judge, Kumbakonam.

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2.The first respondent herein/claimant has filed M.C.O.P.No.299 of 2015, claiming a sum of Rs.15,00,000/- as compensation for the injury sustained by him, who met with an accident that occurred on 20.07.2015.

3.The appellant herein/Insurance Company has filed a counter statement by stating that on the part of the negligent driving of the injured, the above said accident was occurred and further he stated that the sum claimed by the claimant is excessive.

4.The Tribunal, after analyzing the evidence and documents placed by both side, awarded a sum of Rs.14,26,800/- against the claim of Rs.15,00,000/-. Aggrieved by the said order, the appellant/ insurance company has preferred this appeal.

5.The main ground raised by the appellant herein/Insurance Company herein is that without examining the Doctor, who gave treatment to the injured, 50% disability taken by the Tribunal is highly excessive. The other aspect contented by the appellant is that the notional monthly income determined by the Tribunal at Rs.7,500/- per month for the injured, who aged about 50 years at the time of accident, is totally baseless and untenable, which warrants interference of this Court.

6.The learned counsel for the first respondent has denied the mode of accident and also the sum awarded by the Tribunal under various heads are very much reasonable. Hence, he prays to dismiss this appeal.

7.Heard the learned counsel on either side and perused the records carefully.

8.Considering the facts and circumstances of the case and also considering the arguments advanced on either side, this Court finds that without examining the Doctor, who gave treatment to the injured, 50% disability has been taken by the Tribunal. The Tribunal has taken the monthly income of the injured by adding 1/4th towards his personal expenditure at Rs.7,500/- per month. The appellant/Insurance Company is very much aggrieved against the determination of monthly income fixed by the Tribunal, in the absence of any other documents and hence, the appellant/Insurance Company prayed that the income of the deceased has to be taken at Rs.6,000/-. Therefore, after deducting 1/4th towards personal living expenses of the injured, the loss of monthly income comes to Rs.6,000/- and therefore, the total loss of income of the injured is (6000/- x 12 x 13x 50/100) Rs.4,68,000/-.

9. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		the Tribunal at Rs.	this Court at Rs.	
1.	Loss of income	11,70,000/-	4,68,000/-	Reduced
2.	Pain and Suffering	25,000/-	25,000/-	Confirmed
3.	Medical Expenses	1,71,700/-	1,71,700/-	Confirmed
4.	Laboratory Expenses	2,200/-	2,200/-	Confirmed
5.	Transportation	10,000/-	10,000/-	Confirmed
6.	Nutrition	5,000/-	5,000/-	Confirmed
7.	Medical Bills	30,400/-	30,400/-	Confirmed
8.	Attended Charges	5,000/-	5,000/-	Confirmed
9.	Loss of Income during treatment	7,500/-	6,000/-	Reduced
Total compensation		14,26,800/-	7,23,300/-	7,03,500/- (Reduced)

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the appellant/Insurance Company is directed to pay a sum of Rs.7,23,300/- to the 1st respondent herein/claimant as compensation with interest at the rate of 7.5% per year, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order and if any excess amount is deposited by the Appellant/Insurance Company, the Appellant is at liberty to withdraw the same. On such deposit being made, the first respondent herein/ claimant is permitted to withdraw the award amount along with proportionate accrued interests and costs, without filing any formal application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar (CS-)

To:

1. The Motor Accident Claims Tribunal

Principal Subordinate Judge,

<https://hcservices.ecourts.gov.in/hcservices/>

Rumbakoham.



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

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+1 CC to M/s.J.S.MURALI, Advocate (SR-46936[F] dated 14/02/2019)

+1 CC to M/s.B.ANANDAN, Advocate (SR-47491[F] dated 15/02/2019)

C.M.A(MD) No.695 of 2018
13.02.2019

ES/02.07.2019/4P/6C