



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.2155 of 2015
and
MP No.1 of 2015

The National Insurance Co.,
rep. By its Branch Manager,
having office at Pudupalayam
at Veerapandi Village in
Gobi Town,
Gobi Taluk.

...Appellant/3rd Respondent

Versus

1. Viswanathan	...1 st Respondent/Petitioner
2. V. Sathish	...2 nd Respondent/1 st Respondent
3. N. Arunkumar	...3 rd Respondent/2 nd Respondent

(2 and 3rd respondents were set
exparte by the Tribunal. Hence
notice in this appeal against
them may be dispensed with.)

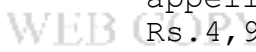
Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, against the judgment and decree 25.03.2013
made in MCOP No.204 of 2011 on the file of Motor Accident Claims
Tribunal, III Additional District Judge, Gobichettypalayam.

For Appellant	: Mr.K.Padmanabhan
For Respondents	: Not ready in notice

JUDGMENT
(Heard Video Conference)

This appeal has been filed by the Insurance Company
challenging the award dated 25.03.2013 passed by the Motor
Accident Claims Tribunal, (III Additional District Judge),
Gobichettypalayam in MCOP No.204 of 2011.

2. The appellant / Insurance Company is mainly aggrieved by
the adoption of the multiplier method for assessing the loss of
earning capacity of the respondent / claimant by the Tribunal
under the impugned award. It is their contention that the
Tribunal ought not to have adopted the multiplier method, since
the respondent / claimant has not been able to establish before



3. The Tribunal under the impugned award directed the appellant / Insurance Company to pay a compensation of Rs.4,99,250/- as detailed hereunder :

4. Heard Mr.K.Padmanabhan, learned counsel for the appellant / Insurance Company. Since this Court is going to confirm the award of the Tribunal, the notice to the first respondent is dispensed with. R2 and R3 were set ex-parte before the Tribunal, hence notice to R2 and R3 are dispensed with.

6. The Doctor (PW2) has assessed the disability of the respondent / claimant at 45% for the injuries sustained by the respondent / claimant which included loss of two teeth on the upper jaw and loss of ten teeth in the lower jaw and the fracture of facial bone. The Tribunal has accepted the disability certificate issued by the Doctor, who has also been examined as a witness (PW2) and has adopted the multiplier method for assessing the loss of earning power of the respondent / claimant before the Tribunal. The respondent / claimant has also deposed that due to the injuries sustained by him, he has unable to do his regular work and is also unable to perform any other work also. No contra evidence has been produced by the appellant / Insurance Company before the Tribunal to prove that the respondent / claimant has become normal after his treatment. The respondent / claimant has also been hospitalised for a period of 8 days from 07.11.2011 to 15.11.2011 as seen from the discharge summary which has been marked as Ex.P7 before the Tribunal. No dispute has also been raised by the appellant / Insurance Company with regard to the injuries sustained by the respondent / claimant. This Court is also of the considered view



that the quantum of compensation awarded by the Tribunal to the respondent / claimant cannot be considered to be excessive, as alleged by the appellant / Insurance Company. Hence, the adoption of multiplier method by the Tribunal under the impugned award is a correct assessment and therefore the contention of the appellant / Insurance Company that multiplier method ought not to have been adopted is rejected by this Court.

7. For the foregoing reasons, this Court does not find any infirmity in the findings of the Tribunal. Therefore, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.204 of 2011 on the file of Motor Accident Claims Tribunal, III Additional District Judge, Gobichettipalayam, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent / claimant, through RTGS, within a period of two weeks thereafter.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi2

To
1. The III Additional District Judge,
Gobichettipalayam.

+1 CC to Mr.K.Padmanabhan, Advocate sr 32815.

CMA No.2155 of 2015

PL(CO)
SP(29/10/2021)