

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 132 of 2015

&

M.P. Nos. 1 & 2 of 2015

M/s. New India Assurance Co. Ltd.,
No.45, 5th Floor,
Moore Street,
Chennai - 600 001.

...Appellant

Vs.

1. Thiru. Arghadeep Lahiri

2. Thiru Rajan

...Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 27.08.2014 passed in M.C.O.P. No. 150 of 2013 by the Motor Accidents Claims Tribunal (II Judge, Small Causes Court), Chennai.

For Appellant : Mr.J. Chandran

For Respondents : Mr.F. Terry Chellaraja for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 12,30,000/- passed by the Motor Accidents Claims Tribunal in favour of the 1st respondent/claimant, aged about 29 years, a B.Tech Student, doing part-time job, said to have been earning Rs.10,000/- per month, for the injuries sustained by him in the accident, which occurred on 08.07.2012.

2. Heard Mr. J. Chandran, learned counsel for the appellant and Mr.F. Terry Chellaraja, learned counsel for the 1st respondent.

3. The only issue in question is with regard to the quantum of compensation.

4. Mr.J. Chandran, learned counsel for the appellant would submit that the percentage of disability determined by the Tribunal is on the higher side and therefore, he seeks reduction of the same.

5. A perusal of the award would show that the 1st respondent sustained the following injuries:

" (1) Traumatic left temporo parietal and right parietal acute subdural haematoma; (2) Tentorial haemorrhage; (3) Diffuse Cerebral Edema; (4) Bilateral frontal and parietal sulcal subarachnoid haemorrhage; (5) Pansinusities; (6) Undisplaced fracture of right tibial spine, head of left fibula and head of right radius (7) Multiple soft tissue injuries."

Based on P.W.2's evidence and medical records, the Tribunal determined the disability at 50%. However, the said determination of 50% is on the higher side, as rightly contended by the learned counsel for the appellant, considering the impact of injuries suffered by the claimant on his earning capacity. Therefore, the disability assessed is re-determined as 40% instead of 50%. The Tribunal rightly took Rs.8000/- per month as the monthly income and applied multiplier 18 as per the age of the claimant. Following the same, " Loss of Income due to disability" is calculated as hereunder:

Loss of Income due to disability :: Rs.8000 x 12 x 40/100 x 18
:: Rs. 6,91,200/-

The sum of Rs.2,25,000/- awarded by the Tribunal towards " Medical Expenses" is on the higher side and based on Ex-P5, medical bills, the same is reduced to Rs.2 lakhs. The other amounts, namely, Rs.25,000/- towards " Attendant Charges"; Rs.35,000/- towards " Loss of Amenities of life"; Rs.50,000/- towards " Pain and Suffering"; Rs.15,000/- awarded towards " Transportation Expenses"; Rs.15,000/- awarded towards " Extra Nourishment" and Rs.1000/- awarded towards " Damages to clothes and materials" are reasonable and they stand confirmed. In all, a sum of Rs.10,32,200/- rounded off to Rs.10,32,000/- is awarded as compensation to the 1st

respondent/claimant. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

6. The appellant is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount, if any, already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent is permitted to withdraw only 50% of the amount within a period of two weeks thereafter. The balance 50% shall be deposited in Indian Bank, High Court Branch, in interest bearing Fixed Deposit, at least for a period of six years. The 1st respondent is permitted to withdraw interest accruing on such deposit once in three months. If the award amount, as per the order of the Tribunal, had already been deposited by the Insurance Company before the Tribunal, then the amount, lying in excess, shall be refunded to them.

7. In the result, the Civil Miscellaneous Appeal is partly allowed, reducing the award amount granted by the Tribunal, to the tune of Rs.12,30,000/-, to Rs.10,32,000/-. No costs. Connected M.Ps are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

nv
To

The MACT
(II Court of Small Causes),
Chennai.

1 CC to Mr.J. Chandran, Advocate SR.No. 18609

1 CC to Mr.F. Terry Chellaraja, Advocate SR.No. 18325

CNR (CO)
PSI (03.06.2015)

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