

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2010

CORAM

THE HON'BLE MRS. JUSTICE CHITRA VENKATARAMAN

C.M.A. No.3407 of 2009
and M.P.No.1 of 2009

Royal Sundaram Alliance Insurance
Co. Ltd., Sundaram Towers,
No.45, Whites Road,
Chennai. ...Appellant/2nd Respondent

Vs.

1. K.Sundararajan
2. E.Ramachandiran ...Respondents/Petitioner &
(R2 exparte before lower court) Ist Respondent

Prayer: Civil Miscellaneous Appeal against the award dated 02.07.2009 made in M.C.O.P.No.323 of 2008 on the file of Motor Accidents Claims Tribunal, (Principal Subordinate Court), Tiruppur.

For Appellant :: Mr.N.Vijayaraghavan
For Respondent :: Mr.S.S.Swaminathan/R-1
:: R-2 exparte

J U D G M E N T

The insurance company is on appeal challenging the award in this case granted at Rs.3,42,600/- payable with interest at 7.5% p.a. as excessive considering the disability of 32%.

2.Admittedly, no evidence was let in by the insurance company countering the claim of the respondent herein as to the extent of disability suffered as certified in Ex.P.11 and the evidence of P.W.3, doctor, who deposed that consequent on the head injury, the claimant has suffered memory loss as well as weakness on the left limbs. The claimant also suffered injury in the right frontal region. The doctor pointed out that the head injury had resulted in severe head ache and in the light of the memory loss and the difficulties in carrying on his day-to-day activities, the claimant has resigned his post as a cashier in the private concern. Taking note of this, the Tribunal adopted multiplier 15 to arrive at the pecuniary loss of Rs.2,88,000/-. As already pointed out, in the absence of any contra evidence, the relief granted by adopting the multiplier cannot be rejected as unjust and unfair. Given the nature

of injuries suffered and its after impact, the claimant is entitled to have the relief based on the multiplier method.

3.As rightly pointed out by the appellant, the claimant was 45 years old. Given the fact that the claimant would have further 13 years of service, the appropriate multiplier to be adopted in this case has to be proportionate to the years of service. Consequently, adopting multiplier 13 to the monthly earning of Rs.5,000/- for the 32% disability, the relief of pecuniary loss is worked out at Rs.2,49,600/-. The Tribunal also granted a sum of Rs.15,000/- towards pain and suffering, Rs.20,000/- towards additional nutrition, Rs.1,000/- towards transportation expenses, Rs.6,000/- towards loss of amenities in life and Rs.30,600/- towards medical expenses. Barring the relief granted under the head of pecuniary loss being worked out at multiplier 13, I do not find any interference is called for in respect of the relief granted under other heads. Consequently, the award under other heads stands confirmed.

4.Accordingly, the appeal is partly allowed and the claimants are entitled to a total sum of Rs.3,04,200/- payable with interest at 7.5% p.a. and costs as awarded by the Tribunal. Pursuant to the award, the appellant had deposited the entire award amount as per the order of this Court dated 18.12.2009. After satisfying the revised award now ordered, the balance amount is entitled to the refunded to the appellant herein. No costs. Consequently, M.P.No.1 of 2009 is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sra

To

The Motor Accidents Claims Tribunal,
Principal Subordinate Court, Tiruppur.

1 cc To M/s.S.S.Swaminathan, Advocate, SR.65192

C.M.A.No.3407 of 2010

SAI (CO)
RH (23.10.10)