

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 4 of 2003

Divisional Manager
United India Insurance Company Limited,
Eluru.

...Appellant

Vs.

1. Mahendran

2. Sri Kumari Subburaj

...Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 06.03.2002 passed in M.C.O.P. No. 274 of 2012 by the Motor Accidents Claims Tribunal (Additional District Judge II), Krishnagiri.

For Appellant : Ms.A. Gragalakshmi for
Mrs.N. Mala

For Respondents : Mr.Mukund R. Pandiyan
for R1
R2 exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred as against the award of 5,60,000/- passed by the Motor Accidents Claims Tribunal (Additional District Court II), Krishnagiri, in favour of the 1st respondent herein, for the injuries sustained by him, in the accident, which occurred on 11.12.1999.

2. Heard Ms.A. Gragalakshmi, learned counsel for the appellant and Mr.Mukund R.Pandiyan, learned counsel for the 1st respondent.

3. The only issue in question is with regard to the quantum of compensation awarded by the Tribunal as the appeal has been filed by the Insurance Company challenging the quantum alone.

4. The Tribunal, based on the evidence of P.W.2, Doctor, determined the disability sustained by the claimant at 65%. A perusal of the records would show that the claimant sustained the following injuries:

- "1. Fracture Pelvis:
 - a. Left Superior and Inferior Pubic Ramus Fracture.
 - b. Pubic Symphysis Diastasis.
 - c. Left Sacroiliac Joint Subluxation.
2. PCL Deficient Left Right Knee.
3. Fracture Both Bones Right leg.
4. Abrasion 3 x3 cm. left fore arm."

The above injuries sustained by the claimant is also supported by medical records. Therefore, the assessment of 65% disability is confirmed and the amount of Rs. 1,30,000/- awarded by the Tribunal, @ Rs.2000/- per percentage of disability is also confirmed.

5. The claimant is said to be working as a Principal in a private school and was also doing technical consultation in Prawn Culture Farming, earning Rs.10,000/- per month. However, there is no evidence to show that he was earning Rs.10,000/- per month. Therefore, the said amount determined by the Tribunal as monthly income is set aside and the sum of Rs.2,50,000/- awarded by the Tribunal towards " Loss of Earning" by taking Rs.10,000/- as monthly income and applying multiplier method is set aside, as the same is contrary to law in the absence of any proof to show that the claimant lost his job resulting in loss of future earning power.

6. Similarly, Rs.1 lakh awarded towards " Medical Expenses", when the claimant produced only receipts for a sum of Rs.47,954/-, is on the higher side and the same is reduced to Rs.48,000/-. The sum of Rs.70,000/- awarded towards " pain and suffering" is sustained. The amount of Rs.10,000/- awarded towards " Transportation", " Extra Nourishment" and "Attendant Charges" together is too low and the same is enhanced to Rs.50,000/-. Towards " Loss of Amenities" and " Loss of Income during treatment Period", Rs.30,000/- and Rs.25,000/- are awarded respectively, as the Tribunal failed to award any amount under the said heads. In all, a sum of Rs. 3,53,000/- rounded off to Rs.3,50,000/- is payable as compensation to the 1st respondent/claimant. The rate of interest

awarded by the Tribunal at 9% per annum remains unaltered.

7. It is submitted that the appellant has already deposited the entire amount, as per the award passed by the Tribunal. Hence, the Tribunal is directed to pay the amount, as per the modified award passed by this Court, together with proportionate interest and costs, within a period of two weeks from the date of receipt of a copy of this order. The balance amount, shall be refunded to the appellant Insurance Company.

8. In the result, the Civil Miscellaneous Appeal is partly allowed, reducing the compensation awarded by the Tribunal from Rs.5,60,000/- to Rs.3,50,000/-. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

nv

To

1.The MACT (Addl. Dist. Court II),
Krishnagiri.

2.The Section Officer,
V.R.Section,
High Court, Madras.

1 CC to Mrs.N. Mala, Advocate SR.No. 31732

1 CC to Mr.M.Sriram, Advocate SR.No. 31967

CNR (CO)
PSI (28.07.2015)

C.M.A. No. 4 of 2003

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