

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1756 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by respondent No.2 – ICICI Lombard General Insurance Company Limited (for brevity “the insurer”), challenging the judgment and decree dated 24.02.2007, passed in M.V.O.P.No.405 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Ongole (for brevity “the Tribunal”), allowing the petition, granting compensation of Rs.4,00,000/-, with interest at 7.5% per annum to the 1st respondent/petitioner for the injuries sustained by him in a motor vehicle accident, on the main ground that the Tribunal, though referred to 80% permanent disability sustained by the 1st respondent/petitioner, while determining the compensation, has taken 100% disability. In view of the main ground agitated, the other grounds become insignificant.

2. Heard Sri Kota Subba Rao, learned counsel for the appellant/insurer, and Sri Palle Nageswara Rao, learned counsel for the 1st respondent/petitioner. Though notice was sent to the correct address of the 2nd respondent – owner of the accident vehicle, as mentioned in the cause title of the O.P., the same was not served on him. But, it makes no difference, since the quantum of compensation alone is challenged in the instant appeal, but not the liability.

3. A perusal of the relevant observations of the Tribunal in arriving at the amount of Rs.4,00,000/- towards compensation

would show that the Tribunal, though mentioned 80% permanent disability, being sustained by the 1st respondent/petitioner, still did not deduct 20%, and computed the total income by applying the relevant multiplier '17'. To that extent, there appears to be a deviation made by the Tribunal in appreciating and determining the amount of compensation. When 80% of the earnings i.e., Rs.17,280/- (Rs.21,600/- x 80/100) is taken into consideration, after applying the relevant multiplier '17', it works out to Rs.2,93,760/-. The other amounts of Rs.15,000/- granted for fracture of right hand lower end of the humerus and Rs.17,800/- granted towards medical expenses and treatment are maintained. Thus, the 1st respondent/petitioner is entitled to a total compensation of Rs.3,26,560/-, which is rounded off to Rs.3,27,000/-.

4. So far as the rate of interest awarded by the Tribunal at 7.5% per annum is concerned, the same is maintained, as the same is in accordance with the rate of interest mentioned in a decision of the Hon'ble Supreme Court in RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS^[1].

5. Accordingly, the Civil Miscellaneous Appeal is allowed in part, granting a compensation of Rs.3,27,000/- (Rupees three lakhs twenty seven thousand only) with interest at 7.5% per annum from the date of petition till the date of realization. No order as to costs.

6. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

01.08.2016.

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