

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.04.2017

CORAM:

THE HON'BLE MR. JUSTICE S. MANIKUMAR
AND
THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A. No.948 of 2015
and
MP.No.1/2015

The New India Assurance Company Ltd.
Branch Office
S.N.V. Chambers, 3rd Floor
483 Cross Cut Road
Gandhipuram Post
Coimbatore 641 012 ... Appellant/3rd Respondent

Vs.

1.D.Rajendran ...1st Respondent/Petitioner
2.C.Senthil ...2nd Respondent/1st Respondent
3.D.Suresh ...3rd Respondent/2nd Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.12.2014, passed in M.C.O.P. No.695 of 2012, by the Motor Accident Claims Tribunal (Sub Court), Dharapuram.

For Appellant : Mr.R.Sivakumar

For Respondents : Mr.Ma.P.Thangavel for R1
R2 & 3 exparte

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JUDGMENT
(Made by M.GOVINDARAJ, J.)

Challenging the award granted by the Motor Accident Claims Tribunal (Sub Court), Dharapuram in M.C.O.P. No.695 of 2012 dated 11.12.2014, New India Assurance Company Limited, Gandhipuram, Coimbatore, has preferred the above appeal on the grounds of negligence and quantum of compensation awarded.

2. Tribunal has fixed the monthly income of the injured as Rs.10,000/-. Today, when the matter is taken up for hearing, learned counsel appearing for both sides, have arrived at a consensus that the monthly income of the injured, shall be fixed at Rs.8,000/-. Considering the documents marked vide Exs.P24, 26, 33, 34, 37 and 38, PW3 - doctor, has found that the claimant has sustained fracture in tibia and astabulam. Further, the claimant has sustained fracture in the ribs. Considering the grievousness of injuries and based on the evidence of PW3 - doctor and Ex.P35 - disability certificate, the Tribunal fixed the disability of the injured as 55%. At the time of accident, the victim was aged about 62 years. Therefore, the Tribunal has applied multiplier '7' for computing the loss of income.

3. Insofar as the quantum of compensation, the Tribunal has awarded a sum of Rs.10,39,050/- as against the claim of Rs.20,00,000/-. Compensation awarded under various heads are as hereunder:

Pain and suffering	: Rs. 1,00,000/-
Extra nourishment	: Rs. 15,000/-
Transport	: Rs. 10,000/-
Loss of income (10,000 x 12 x 55/100 x 5)	: Rs. 3,30,000/-
Medical Expenses	: Rs. 5,34,050/-
Loss of amenities	: Rs. 50,000/-

Total	: Rs.10,39,050/-

4. By consensus, the parties have fixed the monthly income of the injured as Rs.8,000/- and accepted the compensation awarded by the Tribunal under all other heads. Accordingly, the loss of earning capacity is arrived as Rs.2,64,000/- (Rs.8,000/- x 12 x 55/100 x 5). Compensation awarded under all other heads are confirmed. Break up particulars of compensation awarded under various heads are as hereunder:

Pain and suffering	: Rs. 1,00,000/-
Extra nourishment	: Rs. 15,000/-
Transport	: Rs. 10,000/-
Loss of income (8,000 x 12 x 55/100 x 5)	: Rs. 2,64,000/-
Medical Expenses	: Rs. 5,34,050/-
Loss of amenities	: Rs. 50,000/-

Total	: Rs. 9,73,050/-

Rounded off to : Rs.9,73,000/-

The amount awarded by the Tribunal is Rs.10,39,050/-. Accordingly, after consensus arrived at between the parties, the award is reduced to Rs.9,73,050/-.

5. The appellant/New India Assurance Co. Ltd., has deposited the entire award amount, with proportionate interest at the rate of 7.5% per annum and cost to the credit of M.C.O.P. No.695 of 2012, on the file of Motor Accident Claims Tribunal (Sub Court), Dharapuram. In view of the reduced quantum of compensation, the appellant/insurance company is entitled to get refund of the excess deposit made towards compensation.

Civil Miscellaneous Appeal is allowed in part on the above terms. However, there shall be no order as to cost in this appeal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

asr

To

1. The Motor Accident Claims Tribunal
(Sub Court), Dharapuram.
2. The Section Officer,
V.R.Section, High Court, Madras-104.

+1cc to MA.P.Thangavel, Advocate, S.R.No.22558 (22/08/2017)

C.M.A.No.948 of 2015

RSK(CO)
CU(09/08/2017)

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