

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
C.M.A.No.2882 of 2017
and
C.M.P. No.16880 of 2017

The National Insurance Co. Ltd.
Krishnagiri Branch

... Appellant/2nd Respondent

Versus

1. Ramachandran
2. T.Gnanavel

...1st Respondent/Petitioner
...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 21.08.2006 made in M.C.O.P. No.1664 of 2003 (780 of 2003) on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No.1, Dharmapuri at Krishnagiri.

For Appellant : Mr.S. Arunkumar

For Respondents: Mr.M.Jothikumar for R1

No appearance for R2

JUDGMENT

The claimant, Ramachandran, aged 42 years, a Conductor in TNSTC, earning a sum of Rs.4,500/-p.m., met with an accident on 02.08.2002. Therefore, he filed a claim petition claiming compensation.

2. The Tribunal, on consideration of oral and documentary evidence, has quantified the compensation at Rs.1,24,472/-, the break-up details of which is as under :-

Disability at 16% -loss of	
earning capacity	: Rs.1,17,072/-
Pain and suffering	: 3,200/-
Nutrition	: 3,200/-
Damages to clothes	: 200/-
Transportation	: 800/-

Total	<u>Rs.1,24,472/-</u>
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Challenging the quantum of compensation as excessive the insurance company has filed this appeal.

3. The learned counsel for the appellant submits that the multiplier method adopted for quantification in respect of 16% disablement is not proper, considering the nature of job that the claimant was doing. Therefore, it is prayed that the compensation requires reduction.

4. Admittedly the claimant is a Conductor. The disablement that is alleged is loss of teeth and difficulty in swallowing. The said disablement definitely would not have any impact upon his earning capacity. However, the said disablement will definitely cause loss of enjoyment of amenities.

5. The order passed by the Tribunal reveals that the claimant suffered head injury on the left side of the head, injury on the left wrist as well as on the rib bones on the left side. Apart from the above injuries, the claimant suffered loss of teeth on the left side as well as injury on the right thigh. The record further reveals that the claimant was admitted at Thirupattur Government Hospital and later shifted to Vellore Government Head quarters hospital. The injuries sustained by the claimant have been stated to be grievous injuries. The Doctor, who examined the claimant has stated that the claimant suffered loss of three teeth in the front jaw and there is a dis-figuration of his face. Further the claimant also experiences difficulty in chewing, which has been stated to be a disablement by the doctor. Though the doctor has assessed the disablement at 25%, however the Tribunal has thought it to be on the higher side and, accordingly, fixed the percentage of disability at 16% and adopted multiplier method.

6. The Tribunal, taking into consideration the monthly earnings of the injured at Rs.4,065/-, adopting multiplier of '15' in respect of 16% disablement quantified the compensation in a sum of Rs.1,17,072/- under the head future loss of earning capacity; a sum of Rs.3,200/- was awarded towards pain and sufferings; Rs.3,200/- towards extra nourishment; Rs.200/- towards loss of articles and Rs.800/- as transport expenses. In all, the Tribunal quantified the total compensation at Rs.1,24,472/-.

7. This Court has considered the entire factual matrix as also the evidence available on record. Though the Doctor has certified the disablement at 25%, however, without any proper reasoning, the Tribunal has fixed the disablement at 16% and adopted multiplier method. This Court is of the considered view that the facts and circumstances of the case does not warrant adoption of multiplier method, but compensation needs to be

awarded only on per percentage basis. This Court feels that Rs.2,000/- per percentage of disability would be just and reasonable compensation. Accordingly, for the 25% disablement, this Court quantifies the compensation in a sum of Rs.50,000/-. Further, this Court awards a sum of Rs.5,000/- towards medical expenses, Rs.5,000/-; Rs.5,000/- towards transport expenses and Rs.5,000/- towards loss of enjoyment of amenities. In all, the overall compensation is quantified at Rs.65,000/-, which will carry interest at 7.5% p.a., from the date of petition till the date of deposit.

8. For the reasons aforesaid, the appeal filed by the Insurance company is allowed modifying the compensation from Rs.1,24,472/= to Rs.65,000/= along with interest at 7.5% p.a. from the date of claim petition till the date of deposit. No costs.

9. The appellant/insurance company is directed to deposit the entire award amount, along with interest and costs, as quantified by this Court above, less the amount, if any, already deposited, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

vsi2/GLN

To

1) The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate No.1, Dharmapuri at Krishnagiri.

C.M.A.No.2882 of 2017

SSD(CO)
SP(04/04/2018)