

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.715 of 2008

National Insurance Co.Ltd.,
403, Mettur Road,
Bhavani.

...Appellant/2nd Respondent

Vs

1.Murali

...1st Respondent/Petitioner

2.S.K. Ramasamy

(R2 was set exparte before the Lower
Court,hence notice Dispensed with)

...2nd

Respondents/ 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal, (Fast Track Court No.4), Coimbatore at Tiruppur in M.A.C.T.O.P.No. 353 of 2003 dated 09.01.2007.

For Appellant: Mr.J. Chandran

For Respondents: Not Ready Notice Regard-R1

JUDGMENT

The instant appeal has been filed by the insurance company challenging the award dated 09.01.2007 passed by the Motor Accident Claims Tribunal, (Fast Track Court - IV) Coimbatore at Thiruppur, in M.A.C.T.O.P.No.353 of 2003

2.The brief facts leading to the filing of the instant appeal are as follows:

(i) The first respondent sustained grievous injury on 06.11.2002 as a result of an accident caused by a van bearing registration No. TN-33- 5882 owned by the 2nd respondent and insured with the appellant.

(ii) the first respondent preferred a claim before the Motor Accident Claims Tribunal in M.A.C.T.O.P.No. 353 of 2003 seeking a compensation of Rs.5,00,000/-.

(iii)The Motor Accident Claims Tribunal, by its award dated 09.01.2007 in M.A.C.T.O.P.No. 353 of 2003, directed the

appellant to pay the 1st respondent a sum of Rs.2,56,200/- together with interest at the rate of 7.5% per annum from the date of claim till the date of the realization.

(iv) Aggrieved by the Award dated 9.1.2007 passed in MACTOP.No.353 of 2003, the instant appeal has been filed by the Insurance Company.

3. Heard, Mr.J.Chandran, learned Counsel for the Appellant. Notice sent to first respondent has been returned with an endorsement 'Incorrect address'. The 2st respondent has remained ex-parte, both before the Tribunal as well as this Court.

4. According to the learned Counsel for the appellant, the tribunal ought not to have applied the multiplier method in assessing the compensation payable to the 1st respondent.

5. According to him, the tribunal ought to have followed the provision of Section 4(1)(c) of Workman Compensation Act, 1923, for arriving future loss of earning due to disability. Further, he would contend that the compensation awarded towards medical expenses is on the higher side in the absence of evidence.

6. According to him, the tribunal has also awarded higher compensation towards pain and sufferings and also awarded excess interest.

7. Per contra, the learned counsel for the 1st respondent would submit that the 1st respondent sustained grievous injuries. He sustained fracture in the frontal bone of skull and Maxillary bone of jaw, as well as multiplier injuries all over the body as a result of the accident. He would submit that the 1st respondent was aged 24 years at the time of the accident and was employed as Cutting cum Patent Master, earning a monthly income of Rs.5,400/-, but, the tribunal has assessed the monthly income of the 1st respondent only at Rs.3,000/-.

8. According to him, the doctor has also assessed the disability of 1st respondent at 30% and the disability certificate was also marked as exhibit before the tribunal. Therefore, according to him, the compensation awarded to the 1st respondent under the impugned award is a just compensation.

9. This Court, after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

(a) The age, avocation and nature of injuries sustained by the 1st respondent referred to supra has not been disputed by the appellant before the tribunal. Admittedly, the 1st respondent has sustained injuries in the skull as well as in the jaw and

has also sustained multiple injuries all over the body.

(b) He was also working as a cutting cum patent master at the time of the accident. Even though, he claimed that he was earning a monthly income of Rs.5,400/- at the time of the accident, the tribunal has assessed the monthly income of the 1st respondent only at Rs.3,000/-. Even in his claim petition as well as in his oral evidence, he has submitted that he is unable to do any work due to the injuries sustained by him as a result of the accident caused by the insured vehicle. No contra evidence has been produced by the appellant to disprove the said contention of the 1st respondent.

(c) Considering all these factors, the tribunal has rightly adopted the multiplier method in assessing the compensation payable to the 1st respondent.

(d) The defences raised in the grounds of the appeal have been duly considered by the Motor Accident Claims Tribunal under the impugned award. The award is a reasoned and a well considered award.

10. In the result, there is no merit in the instant appeal. Accordingly, the appeal is dismissed. No costs. Consequently, the connected M.P.No.1 of 2008 is closed.

11. It is represented that the entire compensation awarded by the Tribunal has already been deposited before the tribunal. The 1st respondent is directed to withdraw the same on filing an appropriate application.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msr/sbn

To

1. Motor Accident Claims Tribunal,
Fast Track Court,
Coimbatore, Thirupur.

2.The Record Clerk,
Vernacular Section,
High Court, Madras.

C.M.A.No.715 of 2008

RSI (CO)

GSP(19/12/2018)