

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2004 of 2018 and
CMP No.15609 of 2018

The Oriental Insurance Co. Ltd.,
Oriental House, 1st Floor,
No.216/115, Prakasam Salai,
Broadway, Chennai - 600 108. Appellant/3rd Respondent

-vs-

1.Santhosh @ Santhosh Kumar
2.K.Sundar
3.Muthuvel and Bro., Respondents/Petitioner/
1st & 2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 12.01.2018 made in M.C.O.P.No.7301 of 2014 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.2 to deal with MCOP Cases) (Court of Small Causes) Madras.

For Appellant : Mr.S.Manohar
For Respondents: Mr.T.G.Ravichandran

J U D G M E N T

[Judgment of the Court was made by
R.SUBRAMANIAN, J.]

Mr.T.G.Ravichandran, learned counsel is on caveat and takes notice for the first respondent/claimant. By consent of both sides, the Civil Miscellaneous Appeal is taken up for final disposal.

2. The Insurance Company is on appeal. The only challenge in this appeal is to the quantum of compensation arrived at Rs.40,82,400/- towards Loss of earning capacity because of the amputation suffered by the first respondent/claimant. The Tribunal has taken the monthly income of the injured at Rs.18,000/- based on the Appointment Order - Ex.P11 and the Pay Slips filed as Ex.P12 Series. However, it is seen from Ex.P10 that the respondent had completed his Bachelor Degree in Computer Science only on 20.02.2015. The Appointment Order dated 01.06.2014 had been signed by the Proprietor of Aadukalam Sports Arena. The said Aadukalam Sports Arena has been registered as a Partnership Firm only on 06.06.2017.

This leads to a certain amount of doubt with regard to the genuineness of the Appointment Order, which has been produced as Ex.P11. However, considering the qualification of the deceased, we are of the opinion that the monthly income could be taken at Rs.12,000/- and adding 40% towards future prospects, the income for the purpose of determining the compensation would be Rs.16,800/- applying the multiplier of "18", the compensation works out to Rs.36,28,800/- under the head of Loss of Earning capacity.

3. The Tribunal has assessed the disability at 75%. Hence, the claimant is entitled to 75% of the said amount towards future Loss of earning Power, which works out to Rs.27,21,600/-.

4. The Tribunal has awarded only a sum of Rs.75,000/- towards Pain and Suffering. Since it is a case of amputation, we increase the same to Rs.1,50,000/-. The Tribunal has not awarded any amount towards Loss of Marriage prospects. Considering the age of the claimant, we grant a sum of Rs.2,00,000/- towards loss of Marriage Prospects. The Award made under other heads appears to be just and reasonable and hence, the same is confirmed. Thus, the total compensation works out to Rs.38,44,500/-, which is rounded off to Rs.38,50,000/-.

5. In the result, the Civil Miscellaneous Appeal is allowed in part as follows:-

(i) The award of the Tribunal is modified and reduced from Rs.49,30,300/- to Rs.38,50,000/-.

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit with proportionate costs.

iii) The appellant Insurance Company is directed to deposit the modified award amount, less the amount, if any, already deposited, along with interest within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount as per the Award granted by this Court with proportionate interest and cost.

iv) The remaining amount is to be paid over to the appellant Insurance Company.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

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To
The Motor Accidents Claims Tribunal
(Special Sub Court No.2), Court of Small Causes, Madras.

+1cc to Mr.S.Manohar, Advocate Sr.No.62217
+1cc to Mr.T.G.Ravindran, Advocate Sr.No.62052

SSI (CO)
sm:11.10.2018

CMA No.2004 of 2018



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