

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM:

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

CMA No.2499 of 2016 and
C.M.P.No.17727 of 2016

M/s.National Insurance Company Limited,
KRT Building, Promenade Road,
Cantonment, Trichy.

.... Appellant/2nd
Respondent

-vs-

1.A.Abdul Asha
2.C.T.Periya Karuppan

.... Respondents/Petitioners/1st
Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment made in M.A.C.T.O.P.No.746 of 2013 dated 17.02.2015 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur.

For Appellant : Ms.N.B.Surekha
For Respondents: Mr.V.Raghupathi for R1
No appearance for R2

J U D G M E N T

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

The challenge in this appeal is to the Award of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur, granting a sum of Rs.27,41,792/- for the injuries suffered by the first respondent in a motor accident that occurred on 01.08.2008.

2. The percentage of disability has been assessed at 85%. It is claimed that the injured was a vegetable vendor, aged about 31 years. The Tribunal fixed his monthly income at Rs.6,500/- and adding 40% towards future prospects, the monthly income of the injured for the purpose of fixing compensation was arrived at Rs.9,000/-. The Tribunal applied multiplier method and granted a sum of Rs.14,68,800/- towards loss of earning

capacity. The amount awarded under the said head is not questioned.

3. Under other heads, the Tribunal has awarded as follows:-

- i) Pain and Suffering - Rs.2,00,000
- ii)Transport Charges - Rs. 40,000
- iii)Nutrition - Rs. 40,000
- iv)Attender Charges - Rs. 54,000
- v) Loss of Income for the period of treatment -Rs. 54,000

vi) Loss of comfort, happiness and amenities - Rs.2,00,000

vii) Loss of marital prospects - Rs.2,00,000

viii)Loss of future medical Expenses- Rs.2,00,000

ix) Loss of Artificial leg - Rs.2,00,000

4. The learned counsel for the appellant Insurance Company would contend that the Award on the above heads is on the higher side.

5. The Tribunal awarded a sum of Rs.84,992/- towards medical expenses based on the exhibits produced. Considering the nature of injury, the Award made under the non-pecuniary heads are definitely on the higher side. Hence, the Award of the Tribunal is modified and reduced as follows:-

Sl. No.	Head	Awarded by the Tribunal	Awarded by this Court
1	Loss of Earning Capacity for 85%	Rs.14,68,000	Rs.14,68,800
2	Pain and Suffering	Rs.2,00,000	Rs.1,00,000
3.	Medical Expenses	Rs.84,992	Rs.84,992
4.	Transportation	Rs.40,000	Rs.25,000
5.	Extra Nourishment	Rs.40,000	Rs.25,000
6	Attender Charges	Rs.54,000	Rs.54,000
7	Loss of Income for the period of treatment	Rs.54,000	-
8	Loss of Comforts, Happiness and Amenities	Rs.2,00,000	-
9	Loss of Marital Prospects	Rs.2,00,000	Rs.1,00,000
10	For Artificial Leg	Rs.2,00,000	Rs.1,00,000

Sl. No.	Head	Awarded by the Tribunal	Awarded by this Court
11	For Future Medical Expenses	Rs.2,00,000	Rs.43,000
		Total	Rs.20,00,792

Rounded off to Rs.20,00,000/-

7. In the result, the Civil Miscellaneous Appeal is Partly Allowed as follows:-

(i) The award of the Tribunal is modified and reduced to Rs.20,00,000/- from Rs.27,41,792/-

(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.

(iii) The appellant Insurance Company is directed to deposit the 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.

(iv) On such deposit, the claimant is permitted to withdraw the entire amount with proportionate interest and costs by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursement of the amount as stated supra on filing of such application.

No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

svki

To

1. The Motor Accidents Claims Tribunal,
Principal District Court, Perambalur.

2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.N.B. Surekha, Advocate sr 60360.
+1 CC to Mr.V. Raghavachari, Advocate sr 60559.

CMA No.2499 of 2016

NMI (CO)
SP(10/10/2018)



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