

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

C.M.A. No. 3569 of 2014

M/s. Royal Sundaram Alliance
Insurance Company Limited,
No.44, Whites Road,
Chennai - 600 014. ...Appellant/2n Respondent

Vs.

1. S.H. Sanjai
2.S. Veeramani ...Respondents/Petitioner, 1st Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 17.01.2014 passed in M.C.O.P. No. 520 of 2006 by the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant :: Mrs.C. Harini for
Mr.M.B. Raghavan

For Respondents :: Mr.S.N. Narasimhalu
for R1

J U D G M E N T

(Judgment of the Court was delivered by R. SUBBIAH, J.)

This Civil Miscellaneous Appeal has been filed by the Insurance Company questioning the quantum of compensation, to the tune of Rs.30 lakhs, awarded by the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, in and by award dated 17.01.2014 in M.C.O.P. No. 520 of 2006.

2. The 1st respondent herein is the claimant and the 2nd respondent is the owner of the two-wheeler, in which the claimant travelled as a pillion rider on the date of the accident.

3. The case of the 1st respondent/claimant before the Tribunal was that on 11.11.2004, at 2.30p.m., when he was travelling as a pillion rider in the two-wheeler bearing

Registration No. TN-20-R-9102, at 200 feet road, New bridge, Madhavaram, driven by one Krishnadevan, the said two-wheeler met with an accident due to the rash and negligent driving of the rider of the two-wheeler, resulting in his sustaining grievous injuries. Hence, the claim petition was filed claiming a sum of Rs.30 lakhs as compensation.

4. In order to prove the claim before the Tribunal, on the side of the claimant, P.W.s 1 and 2 were examined and Exs-P1 to P17 were marked. Neither oral evidence nor documentary evidence was adduced on the side of the respondents.

5. Before the Tribunal, P.W.2, Doctor, who was examined to prove the nature of disability suffered by the claimant, deposed that the claimant had suffered 100% partial permanent disability due to Post traumatic paraplegia, fracture of D6 and D7 vertebra and that he cannot control urine function and has to survive with the aid of motion bags. Though P.W.2 assessed the disability at 100%, the Tribunal fixed the disability suffered by the claimant at 90%. Thereafter, taking the notional income of the claimant as Rs.5000/-, in the absence any proof regarding his income and adopting multiplier 18, considering the age of the claimant, arrived at Rs.9,72,000/- towards "Loss of Earning Capacity". That apart, the Tribunal awarded the following amounts under other heads:

Transportation	::	Rs.50,000/-
Extra Nourishment	::	Rs.25,000/-
Damage to Clothes	::	Rs. 1,000/-
Medical Expenses	::	Rs.7,01,330/-
Attender Charges	::	Rs.5,32,350/-
Future Attender Charges and Future Medical Expenses	::	Rs.4,00,000/-
Pain and Suffering	::	Rs.2,00,000/-

Thus, the Tribunal, after analysing the entire evidence on record, while holding that the accident had been caused due to the rash and negligent driving of the rider of the two-wheeler, passed an award for a total sum of Rs. 28,81,680/- together with interest @ 7.5% per annum. As already stated, questioning the said quantum of compensation awarded, the present appeal has been preferred by the Insurance Company.

6. Since the issue in question is only with regard to the quantum of compensation awarded by the Tribunal, there is no need to traverse into the other aspects of the award. Hence, in the present appeal, we are only dealing with the quantum of compensation awarded by the Tribunal.

7. The main grievance of the learned counsel for the appellant is that the Tribunal has awarded an exorbitant sum of Rs.4 lakhs under the head "Future Attender Charges and Future Medical Expenses" and the said amount requires to be reduced.

8. Per contra, learned counsel for the 1st respondent/claimant would submit that on account of the grievous injuries sustained, the 1st respondent/claimant has suffered paraplegia and he has become totally immobilised. Even today, he is unable to carry on his day to day activities without the help of an attender. Under such circumstances, according to the learned counsel, the amount awarded under "Future Attender Charges and Future Medical Expenses" cannot be said to be on the higher side by any stretch of imagination.

9. We have heard the learned counsel on either side and gone through the entire materials on record.

10. The evidence on record speaks to the fact that the claimant suffered 100% paraplegia and he has become totally immobile. It is also seen that the 1st respondent/claimant took treatment as an inpatient in Apollo Hospitals, in three spells, totally for 40 days, during which period, he underwent two surgeries. Moreover, as submitted by the learned counsel for the claimant, he is dependent on others even to do his routine activities and he has to spend the rest of his life only with the help of an attender. That being so, the sum of Rs.4 lakhs awarded by the Tribunal towards "Future Attender charges and Future Medical Expenses" cannot be said to be excessive. Furthermore, we find that the Tribunal has awarded reasonable amounts under the other conventional heads as well. Therefore, considering the nature of injuries sustained by the claimant and the long duration of treatment taken by him, the compensation of Rs. 28,81,680/- awarded by the Tribunal appears to be just and proper and warrants no interference at the hands of this Court. Hence, confirming the award passed by the Tribunal, the Civil Miscellaneous Appeal is dismissed. No costs.

11. The appellant Insurance Company is directed to deposit the entire award amount, together with interest and costs, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the amount.

Sd/-

Assistant Registrar(CS CO)

//True copy//

Sub Assistant Registrar

To

1.The II Judge,
The Motor Accident Claims Tribunal
(IICourt of Small Causes),Chennai.

2 The Section Officer,
VR Section, High Court,
Madras.

+2cc to Mr.S..N.Narasimhalu, Advocate SR.No.603
+1cc to Mr.B.Gopalan, Advocate SR.No.717
+1cc to Government Pleader SR.No.

C.M.A. No. 3569 of 2014

KK(CO)
GN(07/02/2018)



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