

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4176 of 2008

and

M.P.No.1 of 2008

The New India Assurance Company Ltd.
Cuddalore N.T.

...Appellant

Vs

1.Ramesh @ Krishnan

2.Ramalingam

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 28.07.2006 passed in M.C.O.P.No.1336 of 2004 on the file of the Motor Vehicles Accident Claims Tribunal (Principal Subordinate Judge) Cuddalore.

For Appellant : Mr.R.Sivakumar

For Respondent : R1- No Appearance

R2 - Ex parte

J U D G M E N T

The instant appeal has been filed by the Insurance Company, challenging the Award dated 28.07.2006, passed by the Motor Accident Claims Tribunal (Principal Subordinate Judge) Cuddalore District in MCOP No.1336 of 2004.

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

The first respondent sustained injuries on 09.02.2004, as a result of accident caused by a TVS 50 Motor Cycle bearing Registration No.TN-31-A-8254 insured with the Appellant. The first respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP No.1336 of 2004 seeking a compensation of Rs.5,00,000/-. The Motor Accident Claims Tribunal by its Award dated 28.07.2006 in MCOP No.1336 of 2004, directed the

Appellant to pay the first respondent a sum of Rs.4,03,300/- together with interest at 7.5% per annum from the date of claim till the date of realization and also awarded cost.

3. Aggrieved by the Award dated 28.07.2006, passed in MCOP No.1336 of 2004, the instant appeal has been filed by the Insurance Company.

4. Heard Mr.R.Sivakumar, learned Counsel for the Appellant. Despite service of notice on the respondents and their names having been printed in the cause list today, none appears on their behalf.

5. According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal has erroneously applied the multiplier method even though, the first respondent has not been able to establish before the Tribunal that as a result of the injuries sustained by him, he lost his future earning capacity.

6. The first respondent was admittedly, a TV mechanic and he sustained fracture namely left leg-tibia as a result of the accident. He also suffered 45% disability and he was hospitalized at Government Hospital Cuddalore, between 09.02.2004 to 14.02.2004 and also subsequently, hospitalized in a private hospital at Chennai. Even though, the first respondent had claimed that he was earning a monthly salary of Rs.6000/- per month at the time of the accident, the Tribunal has fixed the monthly salary of the first respondent only at Rs.4,000/-. He made a claim for Rs.5,00,000/- in MCOP No.1336 of 2004, whereas the Tribunal has awarded only a sum of Rs.4,03,300/- under the following heads:

S.No.	Head	Amount awarded by the Tribunal
1	Permanent Disability	Rs.3,88,800
2	Transport expenses	Rs.9,500
3	Pain and suffering	Rs.5,000
	Total	Rs.4,03,300

7. The Tribunal has also applied the multiplier method in assessing the compensation payable to the first respondent. As a mechanic who needs to move from place to place and carry heavy equipments, the first respondent in the considered view of this Court would have certainly suffered loss of earning capacity as a result of the injuries sustained by him. As a result of the accident, he has suffered fracture namely left leg-tibia and his disability was assessed at 45%.

8.Considering all these factors, the Tribunal has rightly applied the multiplier method in awarding the compensation. Even though, the correct multiplier to be applied is 17, the Tribunal has applied 18 multiplier. But the Tribunal has not awarded any compensation towards loss of future prospects and loss of amenities.

9.Considering all these factors, the compensation awarded by the Tribunal under the impugned Award is a just compensation and does not call for any interference by this Court.

10.In the result, there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Vehicles Accident Claims Tribunal
(Principal Subordiante Judge) Cuddalore.

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

+lcc to Mr.R.Sivakumar, Advocate, S.R.No.60450

C.M.A.No.4176 of 2008

SPD(CO)

GSP(05/10/2018)

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