

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.799 of 2006

National Insurance Company Limited
7 Raja Street
Gobichettipalayam

Appellant / 2nd Respondent

Vs

1. M.G.Marappan
Respondent/Petitioner

1st

2.S.Shanmuga Sundaram

2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 29.09.2004 passed in M.C.O.P.No.58 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Gobichettipalayam.

For Appellant : Mr.N.Vijayaraghavan

For Respondents: R1 - Mr.Ma.Pa.Thangavel
R2 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, as against the award passed by the Tribunal in M.C.O.P.No.58 of 2004.

2.The case in brief is as follows:

On 30.11.2002, at about 8.30 am, when the first respondent/ claimant was standing in the Katcheri Medu Bus Stop, Gobichettipalayam, a Hero Honda motorcycle bearing Regn.No. TN36 E 9164 came in a rash and negligent manner and hit the claimant, due to which, he sustained grievous injuries all over the body. Hence, the 1st respondent/claimant filed a claim petition claiming a compensation of Rs.8,00,000/-. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.6,04,960/- with interest at the rate of 9% per annum from the date of petition. Challenging the quantum of compensation so awarded by the Tribunal, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant submitted that the Tribunal has erred in awarding an exorbitant sum of Rs.5,64,960/- towards loss of income by adopting the multiplier method, in the case of injury and hence, the same has to be reduced substantially.

4.The learned counsel for the respondent/claimant submitted that the Tribunal, after analysing the oral and documentary evidence, has arrived at the just and reasonable compensation, which warrants no interference by this Court.

5.Heard both sides and perused the records.

6.There is no dispute with regard to the liability of appellant insurance company to pay compensation. The only contention raised by the learned counsel for the appellant herein is that the Tribunal has awarded a disproportionate compensation, without appreciating the evidence and documents in a proper perspective.

7. On a careful perusal of the award passed by the Tribunal, it is seen that the claimant sustained fracture in right leg and injuries all over the body. The doctor has been examined as PW.2 and he assessed the disability of the claimant at 55%. Ex.P16 is the disability certificate. Ex.P11 Salary Certificate revealed that the claimant was working as Junior Engineer Grade I, Tamil Nadu Electricity Board, Kasipalayam and his monthly gross salary was Rs.16,629/-. The Tribunal has taken the monthly income of the claimant at Rs.10,700/- and adopted the multiplier of 8 and awarded the compensation under the head "loss of income" at Rs.5,64,960/-. As rightly pointed out by the learned counsel for the appellant, in the case of injury, the multiplier method adopted by the Tribunal is unfair and unjust and hence, the award of Rs.5,64,960/- towards loss of income due to disability is hereby set aside. At the same, the claimant is entitled to the compensation for disability by awarding Rs.2,000/- per percentage of disability. Accordingly, a sum of Rs.1,10,000/- for 55% disability is hereby awarded. However, this Court is of the view that Rs.35,000/- awarded towards medical expenses is based on Exs.P6,P9 and P10 bills and hence, the same need not be interfered.

8. As regards the compensation awarded by the Tribunal towards pain and suffering and extra nourishment, in the opinion of this Court, they appear to be on the lower side, having regard to the nature of the injuries and considering the facts and circumstances of the case and hence, the same are hereby enhanced to Rs.25,000/- and 10,000/- respectively.

9. That apart, taking note of the fact that the Tribunal has not awarded any amount towards loss of income during treatment period, loss of amenities, attendant charges and transportation charges, this Court is inclined to grant Rs.1,99,548/- (Rs.16,629/- x 12 months), Rs.15,000/-, Rs.15,000/- and 10,000/- respectively and hence, the same are hereby awarded. There is no modification with regard to rate of interest at 9%pa awarded by the Tribunal. Thus, the compensation awarded by the Tribunal is hereby reduced to Rs.4,19,500/-, the break-up details of which are as follows:-

S.No	Head	Compensation (in.Rs.)	
		Awarded by the Tribunal	Reduced by this Court
1.	Loss of income	5,64,960.00	1,99,548.00
2.	Medical Expenses	35,000.00	35,000.00
3.	Pain and suffering	3,000.00	25,000.00
4.	Extra nourishment	2,000.00	10,000.00
5.	Loss of amenities	-	15,000.00
6.	Attendant Charges	-	15,000.00
7.	Transport	-	10,000.00
8.	Disability @ 55% x Rs.2,000/- per percentage	-	1,10,000.00
Total		6,04,960.00	4,19,548.00 rounded off at 4,19,500.00

10. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. The appellant Insurance Company is directed to deposit the modified compensation amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the first respondent/claimant forthwith, through RTGS within a period of one week thereafter. It is needless to state that if the appellant insurance company has already deposited the entire compensation as awarded by the Tribunal, it is open to them to withdraw the balance amount.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vrn/rk

To

1. The Motor Accident Claims Tribunal

Principal Subordinate Court, Gobichettipalayam

2. The Section Officer, V.R. Section

Madras High Court, Chennai 104

+lcc to Mr. Ma. Pa. Thangavel, Advocate SR.No. 51824

+lcc to Mr. N. Vijayaraghavan, Advocate SR.No. 52945

C.M.A.No.799 of 2006