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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2426 of 2015

and

M.P.No.1 of 2015

- 1.The Branch Manager,
National Insurance Co.Ltd., Branch Office,
No.333, Anuradha Complex,
III Floor, Opp. to Raja Theatre,
Bangalore Road,
Krishnagiri - 635 001.
- 2.The Branch Manager,
National Insurance Co.Ltd.,
333, Bangalore Road, Anuradha Complex,
III Floor, Opp. to Raja Theatre,
Krishnagiri - 635 001. ..Appellants/2nd & 4th Respondents

Vs.

- 1.V.Naveen ..1st Respondent/Petitioner
- 2.Sakthivel ..2nd Respondent/1st Respondent
- 3.J.Vasu ..3rd Respondent/3rd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.09.2014 made in M.C.O.P.No.3120 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellants	: Mr.S.Vadivel
For R2 & R3	: No Appearance
For R1	: Mr.Mukund R.Pandiyan

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award dated 05.09.2014 made in M.C.O.P.No.3120 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

2.The appellants are the respondents 2 and 4 in M.C.O.P.No.3120 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri. The first respondent filed the above said claim petition, claiming a sum of



Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.12.2012.

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3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the drivers of the auto belonging to the respondents 2 and 3 and directed the first appellant to pay 70% and second appellant to pay 30% of the total award amount of Rs.8,55,020/- as compensation to the first respondent.

4.Against the said award dated 05.09.2014 made in M.C.O.P.No.3120 of 2013 granting compensation to the first respondent/claimant, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that the Tribunal erred in fixing a sum of Rs.7,000/- as monthly income of the first respondent, when admittedly the first respondent was aged 20 years and was a 3rd year B.Com student. The first respondent has not suffered any permanent disability. In such circumstances, the Tribunal ought not to have applied multiplier method. The amount awarded by the Tribunal under different heads are excessive and prayed for setting aside the award passed by the Tribunal.

6.Per contra, Mr.Mukund R.Pandiyan, learned counsel appearing for the second respondent contended that the first respondent was aged 20 years and was a III year B.Com student in Arignar Anna College, Krishnagiri. Due to the injuries and disability suffered by him in the accident, he could not do his daily work as he was doing before and could not walk for a long distance and stand for long time. He could not play, sit or squat as before. The multiplier method adopted by the Tribunal is correct. P.W.2/Doctor assessed that the first respondent suffered 45% disability and the Tribunal reduced the same to 35%, without any valid reason and granted compensation. The Tribunal ought to have granted compensation for 45% disability. The Tribunal ought to have granted 7.5% interest for the compensation amount instead of 6%. The amount awarded by the Tribunal under different heads are not excessive and prayed for dismissal of the appeal.

7.I have heard the learned counsel appearing for the appellants as well as the second respondent and perused the entire materials on record.



8. From the materials available on record, it is seen that the first respondent was aged 20 years and was a III year B.Com student in Arignar Anna College, Krishnagiri. Due to the injuries and disability suffered by him, he could not do his regular work as he was doing earlier. P.W.2/Doctor assessed that the first respondent suffered 45% disability and the Tribunal reduced the same to 35% and granted compensation by applying multiplier method. Considering the materials on record in entirety, this Court holds that the first respondent is entitled to compensation by applying multiplier method for 30% disability. After applying the multiplier '18', the compensation awarded by the Tribunal towards loss of earning capacity is modified to Rs.4,53,600/- [Rs.7,000/- X 12 X 18 X 30/100]. The amount awarded by the Tribunal under other heads are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earning capacity	5,29,200/-	4,53,600/-	reduced
2.	Pain and sufferings	50,000/-	50,000/-	confirmed
3.	Extra Nourishment and transportation	25,000/-	25,000/-	confirmed
4.	Medical expenses	1,25,820/-	1,25,820/-	confirmed
5.	Future medical expenses	50,000/-	50,000/-	confirmed
6.	Attendant charges	25,000/-	25,000/-	confirmed
7.	Loss of marriage prospects and expectation of life	50,000/-	50,000/-	confirmed
	Total	Rs.8,55,020/-	Rs.7,79,420/-	reduced by Rs.75,600/-

9. The learned counsel appearing for the appellants contended that the Insurance Company have already deposited a sum of Rs.6,50,000/- to the credit of M.C.O.P.No.3120 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Court,



Krishnagiri. The appellants are directed to deposit the balance amount to the credit of M.C.O.P.No.3120 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.8,55,020/- is hereby modified to Rs.7,79,420/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The first appellant is directed to deposit 70% of the award amount i.e., Rs.5,45,594/- and the second appellant is directed to deposit 30% of the award amount i.e., Rs.2,33,826/-, together with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent is permitted to withdraw the modified award amount now determined by this Court, along with interest and cost, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy to : The Section Officer, VR Section,
High Court, Madras.

+1 cc to M/s.S.Vadivel, Advocate Sr.No. 40455

+1 cc to M/s.Mukund R.Pandian, Advocate Sr.No. 41339

AKM/03.12.19/4P-5C /
AKM/03.01.2020

C.M.A.No.2426 of 2015 and
M.P.No.1 of 2015