



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1275 of 2013

and

M.P(MD)No.3 of 2013

WEB COPY

1.Superintendent,
The Executive Engineer & General,
Chepauk, Chennai.

2.The Executive Engineer,
PWD, Ground Water Division,
Mannarpuram, Trichy.

.. Appellants /
Respondents

Vs.

Sureshkumar

.. Respondent /
Claimant

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 08.02.2011, passed in M.C.O.P.No.239 of 2007 by the Motor Accident Claims Tribunal / Chief Judicial Magistrate's Court, Pudukottai.

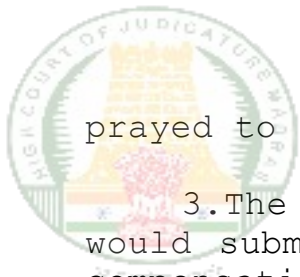
For Appellants : Mr.J.Gunaseelan Muthiah,
Addl. Government Pleader.

For Respondent : Mr.J.Anandkumar

JUDGMENT

It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.1,95,840/- towards disability, Rs.2,000/- towards pain and sufferings, Rs.2,000/- towards transportation expenses, other medical expenses, extra nourishment, etc., totally Rs.1,99,840/- as compensation. The Tribunal has directed the appellants 1 and 2 to pay jointly and severally the entire compensation amount with 7.5% interest per annum from the date of petition till the date of realization. The appellants have filed this appeal questioning the quantum.

2.The learned counsel appearing for the appellant / Insurance Company would submit that though no document has been filed on the side of the respondent / claimant in respect of the income of the deceased, the Tribunal has fixed the notional monthly income of the deceased as Rs.2,000/-, which is on the higher side. Thus, he



prayed to reduce the award passed by the Tribunal.

3.The learned counsel appearing for the respondent/claimant would submit that the Tribunal has awarded only lesser amount as compensation and therefore, the same may not be interfered with.

4.Heard the learned counsel appearing for the parties and perused the records carefully.

5.The date of accident is on 08.06.2007. Admittedly, it is not in dispute that due to accident, the claimant had sustained severe multiple injuries and major crush injuries and bone fracture on his left leg thigh femur bone. As per the evidence of P.W.2, doctor, the claimant has sustained the following injuries:

"1)Left leg Tibia and Fibula bone fracture, Even after proper medical treatment fractured bones joined, wrongly causing mal-union and deformity. Left leg has become shorter than the right leg.

(ii)Left arm big thumb finger bone fracture. He is suffering from loss of gripping powers.

(iii)Left hip flex bone damaged. Left leg movements are restricted and reduced.

(iv)The petitioner is unable to sit on the floor by holding his legs. He is unable to ride motor cycle and he is unable to climb on the stair-cases. Furthermore he is unable to drive any vehicles. Prolonged standing causes pain and swelling".

P.W.2, doctor has also assessed the quantum of disability as 48% and he has issued Ex.P.4, disability certificate to that effect. Perusal of the evidence of P.W.2, doctor and Ex.P.4, disability certificate would show that the bone deep lacerated injuries and fracture on his left leg, have caused ugly appearance and disfigurement, for which, he had undergone two operations and plate and screws were implanted and he is unable to perform any work practically due to the permanent disability sustained by him. Considering the fact that the Tribunal has fixed disability on the basis of Ex.P.4, disability certificate issued by P.W.2, doctor, this Court is of the view that the disability fixed by the Tribunal as 48% requires no interference.

6.At the time of accident, the claimant was stated to be working as a painting contractor and earning a sum of Rs.7,500/- per month. In Ex.P.3, Case Sheet, it has been stated that he was aged about 22 years, at the time of accident.

7.The Hon'ble Supreme Court and this Court have time and again held that if there is categorical evidence that because of injury and consequential disability, the injured lost his employment or



in that event, loss of income or earning may be ascertained by applying "multiplier method". As stated earlier, in this case, the claimant was working as a painting contractor. Due to accident, the petitioner is finding difficulty in carrying on his normal life and avocation. The Tribunal, after considering the said aspect, has rightly adopted the multiplier method for arriving at reasonable compensation towards disability.

8.It is not in dispute that the claimant was aged about 22 years at the time of the accident. As stated earlier, the claimant was stated to be working as a painting contractor and earning Rs.7,500/- per month as income. But, he has not produced any document in order to substantiate the same. The Tribunal after considering the year of the accident and avocation of the claimant, has rightly fixed Rs.2,000/- as notional monthly income of the deceased and adopted multiplier '11' considering the age of the claimant and awarded a sum of Rs.1,95,840/- towards 48% permanent disability sustained by the claimant. It is seen that the Tribunal has not added any sum towards future medical expenses. The award passed towards pain and sufferings and transportation expenses, other medical expenses, extra nourishment, etc., cannot be considered as excessive. Therefore, this Court is not inclined to interfere with the award passed by the Tribunal.

9.In view of the above, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellants are directed to deposit jointly and severally the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant is permitted to withdraw the entire amount with accrued interest and costs, less the amount already withdrawn, by filing an application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate's Court,
Pudukottai.



2.The Record Keeper,-2 COPIES

V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

1 CC to M/s.J.ANANDKUMAR, Advocate (SR-80846[F] dated
09/08/2019)

+1 CC to M/s.SPL GP (SR-81532[F] dated 13/08/2019)

SMN

JUDGMENT MADE IN
C.M.A (MD) No.1275 of 2013
09.08.2019

KM/(05.09.2019) 4P 6C