



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.M.A (MD) No.18 of 2014

and

M.P (MD) No.1 of 2014

National Insurance Company Limited,
rep. by its Branch Manager,
9, Jerome Building, First Floor,
Fort Station Road, Tiruchy.

.. Appellant/ 2nd Respondent

Vs.

1.K.Suresh

.. 1st Respondent / Claimant

2.G.Ganesan

.. 2nd Respondent/ 1st Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 21.03.2013, passed in M.C.O.P.No.2193 of 2009 by the Motor Accident Claims Tribunal / Third Additional Sub Court, Tiruchy.

For Appellant : Mr.R.Srinivasan

For Respondent No.1 : Mr.N.Sudhagar Nagaraj

For Respondent No.2 : No appearance

JUDGMENT

It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.3,97,800/- towards permanent disability, Rs.20,000/- towards pain and sufferings, Rs.5,000/- towards transport expenses and extra nourishment, Rs.5,000/- towards attendant charges, Rs.1,000/- towards damages to dress and Rs.1,97,973/- towards medical bills, totally a sum of Rs.6,26,773/- as compensation. The Tribunal has directed the appellant / Insurance Company to pay the entire compensation amount with 7.5% interest per annum from the date of petition till the date of realization. The appellant / Insurance Company has filed this appeal questioning the quantum of compensation.

2.The learned counsel appearing for the appellant / Insurance Company would submit that the Tribunal has fixed 30% permanent



disability to the claimant, but it has awarded compensation for 60% disability, which is erroneous. The compensation awarded towards other heads are also excessive. Thus, he prayed to reduce the compensation.

3. The learned counsel appearing for the first respondent / claimant would submit that due to accident, the claimant sustained grievous injuries all over his body and P.W.2, doctor has given disability certificate fixing the permanent disability at 68% and the Tribunal has awarded compensation only for 65% by applying multiplier method, which is reasonable. Thus, he prayed to dismiss the appeal.

4. Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the first respondent / claimant and perused the materials available on record.

5. The date of accident is on 15.06.2009. It is not in dispute that due to accident, the claimant sustained fractures on his right leg, right knee and below knee, right thigh, below right shoulder, right shoulder and forehead and cut injuries on forehead, right ankle and right foot and his right leg and right hand are permanently disabled. P.W.2, doctor, has given Ex.P.2, Accident Register to that effect. He has also deposed that the claimant has sustained 68% disability and issued Ex.P.7 - disability certificate to that effect. Considering the fact that the physical frame of the claimant has been shattered and the same cannot be restored and also considering the fact that the claimant has lost his avocation, this Court is of the view that the disability of the claimant can be taken as 65% and based on the same, the compensation can be awarded. Considering the permanent disability sustained by the claimant, the Tribunal has rightly adopted multiplier method.

6. It is not in dispute that the claimant was aged about 27 years at the time of the accident. The claimant was stated to be working as salesman in a Soda Company and earning a sum of Rs.3,300/- per month. The Tribunal has fixed Rs.3,000/- as notional monthly income of the deceased. Considering the age of the deceased as 27, the Tribunal has rightly adopted multiplier 17. Though the Tribunal has erroneously fixed permanent disability as 30%, it has rightly awarded a sum of Rs.3,97,800/- towards 65% permanent disability. The Tribunal has not added any amount towards future prospects. The compensation awarded towards the other heads, i.e., Rs.20,000/- towards pain and sufferings, Rs.5,000/- towards transport expenses and extra nourishment, Rs.5,000/- towards attendant charges and Rs.1,000/- towards device costs for services are not on the higher side. The Tribunal awarded a sum of Rs.1,97,973/- towards medical expenses based on medical bills, which cannot be interfered with.



7. In view of the above, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. It is represented that the appellant / Insurance Company already deposited the entire award amount before the Tribunal and 50% of the award amount has been withdrawn by the claimant. Therefore, the claimant is permitted to withdraw the balance award 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 (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

The Third Additional Subordinate Judge,
Motor Accident Claims Tribunal , Tiruchy.

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.R.SRINIVASAN, Advocate (SR-69919[F] dated 19/06/2019)

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-70095[F] dated 20/06/2019)

**JUDGMENT MADE IN
C.M.A(MD) No.18 of 2014
and
M.P(MD) No.1 of 2014
19.06.2019**

smn

AE/(02.08.2019) 3P 6C