



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.634 of 2018

and

C.M.P(MD) .No.3016 of 2019

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The Manager,
M/s.Cholamandalam General Insurance Company Limited,
Dare House
2nd Floor, N.S.C. Bose Road
Chennai 600 001

...Appellant/Respondent -2

Vs

1.Ravichandran
2.Hakkim

...Respondent/Petitioner

3.Athif Rahman

...Respondents/Respondents 1 & 3

Prayer: Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set aside the fair and decreetal order 27.11.2017 made in M.C.O.P.No.177 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Thanjavur and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.K.M.Karunakaran

J U D G M E N T

This appeal has been filed against the award dated 27.11.2017 made in M.C.O.P.No.177 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Thanjavur.

2.It is the case of the first respondent/claimant that on 15.11.2015 when the first respondent/claimant was standing at the back side of the kitchen in the marriage hall and at that point of time, the driver of the second respondent's vehicle bearing Registration TN 45 AU 4774 drove the vehicle rashly and negligently in the reverse direction, thereby, the claimant sustained multiple injuries on his body and immediately, he was admitted in the Thanjavur Medical College for treatment. For which, the first respondent/claimant has filed M.C.O.P.No.177 of 2016 claiming



compensation of Rs.15,00,000/-. The appellant filed counter affidavit denying the involvement of the vehicle insured with them. They also disputed the age, avocation, income of the deceased and compensation claimed under various heads.

3. Considering the oral and documentary evidence adduced on either side, the Tribunal held that the driver of second respondent vehicle was responsible for the accident and directed the appellant to pay compensation of Rs.6,40,000/- with 7.5% interest per annum from the date of petition till the date of deposit. Aggrieved by the said award, the appellant has filed this appeal challenging the quantum.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. The learned counsel for the appellant would state that since there is no proof of permanent disablement and functional disability for the injured claimant, the Tribunal ought not to have followed the multiplier formula to grant compensation. The Tribunal has fixed a sum of Rs.3,90,000/- for disability factor and loss of income by following the multiplier formula is unacceptable and the Tribunal ought to have found that there is no functional disability for the injured claimant.

6. On going through the records, this Court doubted the assessment of disability percentage and the application of multiplier method and therefore, this Court directed the 1st respondent/claimant to be present before this Court today. The claimant is present before this Court. On physical appearance of the 1st respondent/claimant, this Court is of the opinion that there is no functional disability and therefore, application of multiplier method by the Tribunal for computing loss of income is not warranted and the compensation of Rs.3,90,000/- awarded by the Tribunal for loss of income due to 50% disability is very high. Therefore, a sum of Rs.3,000/- is hereby awarded for each percentage of disability as per the judgment of this Court **in National Insurance Company Limited vs. G.Ramesh, reported in 2013 (2) TN MAC 583**. Accordingly, a sum of Rs.1,50,000/- (Rs.3000 x 50%) is hereby awarded towards loss of income. Except the award under the head loss of income, the compensation under other heads are not interfered with. The overall compensation is awarded as follows:-

Loss of income (Rs.3000*50%)	=	Rs. 1,50,000/-
Pain and Sufferings	=	Rs. 1,00,000/-
Loss of amenity	=	Rs. 50,000/-
Extra Nourishment	=	Rs. 30,000/-
Attender Charges	=	Rs. 50,000 /-
Transportation Expenses	=	Rs. 20,000/-
Total	=	Rs.4,00,000/-



(Less) Amount awarded by the
Tribunal

= Rs.6,40,000/-

Reduction

= Rs.2,40,000/-

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7. In the result, there shall be a reduction of Rs.2,40,000/- on the quantum. The appellant is directed to deposit the modified compensation of Rs.4,00,000/- with 7.5% interest per annum from the date of claim till the date of deposit, less the amount already deposited, if any, to the credit of the claim petition within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the entire amount with interest by filing a formal permission petition before the Tribunal.

8. With the above modification, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Motor Accident Claims Tribunal/
Special Subordinate Judge, Thanjavur

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-69123[F] dated
17/06/2019)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-69134[F] dated
17/06/2019)

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KK/SAR/31.07.2019/3P-4C