

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.NO.2013 OF 2013

AND

M.P.NO.01 OF 2013

Divisional Manager,
Oriental Insurance Co.Ltd.,
Subha Govindham Building,
2nd Floor, Imperial Road,
Cuddalore-607 002.

... Appellant/2nd Respondent

Vs

1.Gunasekaran ... 1st Respondent/Claimant

2.K.Shankar ... 2nd Respondent/1st Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.910 of 2006, dated 27.11.2012, on the file of the Motor Accident Claims Tribunal, I Additional Subordinate Judge, Cuddalore.

For Appellant : Mr.E.Rajadurai
for M/s.N.Vijayaraghavan

For R1 : Mr.D.Baskar

For R2 : No appearance

J U D G M E N T

The instant appeal has been filed by the Insurance Company, challenging the award dated 27.11.2012, passed by the Motor Accident Claims Tribunal, I Additional Subordinate Judge, Cuddalore in M.C.O.P.No.910 of 2006.

2.The brief facts leading to the filing of the instant appeal are as follows:

On 06.04.2005 at about 05.00 P.M., when the first respondent was returning from Thattampalayam Village in second respondent's

vehicle Hero Honda Motorcycle bearing Regn.No.TN-32-5161 as pillion rider, the second respondent drove the vehicle in a rash and negligent manner and capsized the vehicle near Thattampalayam village curve and the first respondent was thrown from the vehicle on the left side of the road at western direction at a ditch. Due to this impact, the first respondent sustained fracture of interior wedge compression of the spinal card and grievous and multiple injuries all over his body.

3.The first respondent preferred a claim before the Motor Accident Claims Tribunal, I Additional Subordinate Court, Cuddalore, in M.C.O.P.No.910 of 2006, seeking compensation of Rs.7,00,000/-.

4.The Motor Accident Claims Tribunal, I Additional subordinate Court, Cuddalore by its award dated 27.01.2012, in M.C.O.P.No.910 of 2006, directed the appellant to pay a sum of Rs.2,29,100/- together with interest at the rate of 7.5% from the date of claim till the date of realization.

5.Aggrrieved by the award dated 27.11.2012, passed in M.C.O.P.No.910 of 2006, the instant appeal has been filed by the Insurance Company.

6.Heard the learned counsel for the appellant and the learned counsel appearing for the first respondent and perused the materials available on record.

7.It is seen that the injured was working as a Cable T.V. Operator and was earning Rs.5,000/- per month, but, there is no proof for the same and the Court below has fixed Rs.5,000/- per month, which is correct and this Court is not interfere with the same. The age of the injured is fixed as 28 years and hence the multiplier 17 can be applied. It is seen that the Doctor has fixed the disability as 16% for the injuries sustained by the claimant. Hence, the Tribunal awarded a sum of Rs.1,63,200/- $5000 \times 12 \times 16 \times 17/100 = \text{Rs.1,63,200/-}$ for "Permanent Disability". Further, the Tribunal has awarded a sum of Rs.20,000/- under the head of "Pain and suffering", Rs.10,000/- for "Loss of Income" which is just and reasonable and the same is hereby confirmed. After producing the Medical Bills the Court below has awarded a sum of Rs.1,500/- which is just and reasonable. The Court below has awarded a sum of Rs.10,000/- for "Transportation" and Rs.25,000/- for "Nutritions" the Court below has clearly considered and awarded a sum of Rs.2,29,100/- which is just and reasonable. The compensation awarded by the Court below as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Permanent Disability	1,63,200/-	1,63,200/-	Confirmed
2.	Pain and Sufferings	20,000/-	20,000/-	Confirmed
3.	Loss of income	10,000/-	10,000/-	Confirmed
4.	Medical Expenses	1,500/-	1,500/-	Confirmed
5.	Transportation	10,000/-	10,000/-	Confirmed
6.	Nutritions	25,000/-	25,000/-	Confirmed
	Total	Rs.2,29,100/-	Rs.2,29,100/-	Confirmed

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The I Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.

2. The Section Officer,
VR Section, High Court,
Madras.

+1cc to M/s.N.Vijayaraghavan, Advocate, S.R.No.14307

+1cc to Mr.D.Baskar, Advocate, S.R.No.12986

C.M.A.No.2013 of 2013
and M.P.No.01 of 2013

SV(CO)
CS/01/02/2021