

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2662 of 2015
M.P.No.1 of 2015

The Divisional Manager,
M/s.National Insurance Company Limited,
D.O.110, J.N.Street, Pondicherry-605 001.

..Appellant/2nd Respondent

Vs.

1.J.Ramamoorthy ..1st Respondent/Petitioner

2.Jasco Footwear Products Limited,
No.4, Roman Rolland Street, Puducherry.

3.S.Kalliappan

4.The New India Assurance Company Limited
Bharathi Road, Cuddalore.
(R2 set exparte before Tribunal)

..Respondents 2 to 4/Respondents 1,3 & 4

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 24.07.2015 passed in M.C.O.P.No.510 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Cuddalore.

For Petitioner : Mr.G.Udaya sankar

For Respondents : Mr.D.S.Thirumavalavan for R1
M/s.G.Sukumari, for R4
Non-appearance for R3
R2-not ready in notice.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the judgment and decree dated 24.07.2015 passed in M.C.O.P.No.510 of 2010 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Cuddalore.

2. The accident occurred on 23.05.2007 at about 3.00 Hours near Attur to Kallakurichi Main road, near Akibai Maram Aruppu Mill. The SHO, Thalaivasal Police station registered a case in Crime No.273 of 2007 under Sections 279 & 337 I.P.C.

3. Admittedly, two vehicles involved in the accident and the respondent/claimant sustained injuries. The application for compensation itself was filed under Section 163-A of the Motor Vehicles Act.

4. The learned counsel appearing on behalf of the appellant mainly contended that once the application is filed under Section 163-A of the Motor Vehicles Act, then the medical expenses cannot be granted over and above a sum of Rs.15,000/-. However, as per II-Schedule of the Motor Vehicles Act, the Tribunal has committed an error in awarding the compensation under the head of medical expenses, which is untenable. This apart, future medical expenses was also granted by the tribunal, for which, there is no evidence or document produced by the claimant. Except these two heads, the appellant is not having any serious objection with reference to the compensation awarded by the Tribunal.

5. As far as the fourth respondent is concerned, the vehicle belonging to him was parked on the road side and they are a formal party.

6. A perusal of the award reveals that the loss of future earning capacity was assessed by applying multiplier "13" and accordingly, a sum of Rs.3,86,100/- was awarded. For pain and suffering, Rs.37,500/- was awarded and for transport and other incidentals, Rs.10,000/- was awarded and grant of medical expenses of Rs.2,09,494/- is seriously objected by the appellant mainly on the ground that it is in violation of the Second Schedule of the Motor Vehicles Act and the Tribunal has committed an error. The finding of the tribunal reveals that no documents regarding future treatment was produced and the Tribunal in its award categorically found that the petitioner has not produced any document for future medical expenses, however, the Tribunal has granted a sum of Rs.50,000/- for future medical expenses. Such a grant of compensation is also not in commensuration with the legal principles. Except these two heads, this Court do not find any perversity or infirmity.

7. As far as the medical expenses are concerned, the same is in violation of the Second Schedule of the Motor Vehicles Act and future medical expenses are concerned, the claimant has not produced any document to prove that he had taken future medical treatment for injuries sustained. This being the factum, this

Court is inclined to modify the award as under:

a) Loss of Future Earning Capacity (3300X12X75%X13)	: Rs.3,86,100/-
b) Pain and Suffering	: Rs.37,500/-
c) Transport & other incidentals	: Rs.10,000/-
d) Extra Nourishment	: Rs.30,000/-
e) Attender charges	: Rs.5,000/-
f) Loss of Amenities of life	: Rs.25,000/-
Total	: Rs.4,93,600/-

8. It is brought to the notice of this Court that the appellant had already deposited a sum of Rs.4,00,000/- with accrued interest and the respondent/claimant is permitted to withdraw the modified award amount of Rs.4,93,600/- with accrued interest by filing appropriate application before the Tribunal. If any further amount is to be deposited, then the appellant is directed to pay the balance amount that is payable to the claimant. The payments are to be made through RTGS.

9. Accordingly, the civil miscellaneous appeal stands allowed in part. No costs. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Subordinate Judge, Cuddalore.

2. The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.G.Udaya Sankar, Advocate sr 18536.
+1 CC to Mr.R. Sivakumar, Advocate sr 18588
+1 CC to Mr.D.S.Thirumavalavan, Advocate sr 19686.

C.M.A.No.2662 of 2015

NRL (CO)
SP(16/12/2020)