



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 07.09.2020

Coram::

The Honourable Dr. Justice G. Jayachandran

C.M.A.No.2817 of 2015
& Cross Objection No.68 of 2016
& M.P.No.1 of 2015

M/s. New India Assurance Co. Ltd.,
Regional Office,
Obli Towers,
R.S.Puram,
Coimbatore - 2.

... Appellant/3rd Respondent
in C.M.A.No.2817 of 2015

/versus/

1. Mr.S.Mohan Rajalingam,
S/o.Subbaraya Gounder,
No.4/65A, Kamarajapuram,
K.K.Chavadi, Ettimadai,
Coimbatore.

2. Mr.Sivakumar,
S/o.Achuthan,
No.4/54, Rajendra Prasath Street,
Appan Thottam,
K.G.Chavadi, Coimbatore.

3. Mr.C.Asokan,
S/o.Chamy,
Thaikattapadi House,
Varoda, Kottayam, Kerala - 678 572.

... Respondents
in C.M.A.No.2817 of 2015/
Petitioner & Respondents 1 & 2

1. Mr.S.Mohan Rajalingam,
S/o.Subbaraya Gounder,
No.4/65A, Kamarajapuram,
K.K.Chavadi, Ettimadai,
Coimbatore.

... Cross objector/Petitioner

/versus/

1. Mr.Sivakumar,
S/o.Achuthan,
No.4/54, Rajendra Prasath Street,
Appan Thottam,
K.G.Chavadi,
Coimbatore.



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2. Mr.C.Asokan,
S/o.Chamy,
Residing at Thaikattapadi House,
Varoda, Kottayam, Kerala - 678 572.

3. M/s. New India Assurance Co. Ltd.,
Regional Office, Obli Towers,
R.S.Puram, Coimbatore - 2. ... Respondents/Respondents
in Cross Appeal No.68 of 2016

Prayer in C.M.A.No.2817 of 2015: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying against the judgment and decree passed in M.C.O.P.No.179 of 2013 on 22.04.2015 on the file of the Learned Motor Accident Claims Tribunal (Special Subordinate-Judge), Coimbatore District.

Prayer in Cross Objection No.68 of 2016: Cross Appeal is filed under Order 41 Rule 22 of C.P.C, 1908, praying to enhance the compensation awarded in the judgment and Decree dated 22.04.2015 made in M.C.O.P.No.179 of 2013 on the file of MACT/Special Sub Court, Coimbatore.

For Appellant in : Mr.J.Chandran,
CMA & 3rd Respondent
in Cross Objection

For R1 in CMA : Mr.MA.P.Thangavel,
Cross Objector in
Cross Objection

C O M M O N J U D G M E N T

(The case has been heard through video conference)

Heard the Learned Counsel for the appellant and the Learned Counsel for the respondent.

2. It is a case where the Tribunal has awarded a sum of Rs.7,50,000/- for the injury sustained by the claimant. The award of compensation under different heads is as below:-

Compensation for partial (45 x 3000) permanent disability	Rs.1,35,000/-
Loss of income (8,000 x 12)	Rs.96,000/-
Medical expenses	Rs.1,04,000/-
Pain and sufferings	Rs.1,00,000/-
Extra Nourishment	Rs. 10,000/-
Transport	Rs.25,000/-
Future medical expenses	Rs.2,30,000/-



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Compensation for partial (45 x 3000) permanent disability	Rs.1,35,000/-
Loss of amenities and enjoyment of life	Rs.50,000/-
Total	Rs.7,50,000/-

3. The Insurance Company has filed the appeal stating that the award of the Tribunal is excessive for the future medical expenses, where the Tribunal has awarded a sum of Rs.2,30,000/- which is unwarranted and other heads also the compensation is excessive and exorbitant.

4. The Claimant has filed the Cross objection wherein, it has been stated that the monthly income of the claimant has been assessed very less. Towards the loss of permanent disability the Tribunal has awarded only Rs.1,35,000/-. It should have awarded atleast Rs.3,00,000/-. For future medical expenses the award of the Tribunal is Rs.2,30,000/- is very less. It should have added atleast a sum of Rs.3,00,000/-. The Appeal and Cross objection centres around the assessment of the permanent disability and future medical expenses.

5. From the records, this Court finds that the disability has been spoken by one Dr.K.Kajendiran was clinically examined as P.W.2. The assessment is not done by the Medical Board. Since the issue centres around the disability and future medical expenses, this Court is of the view that the matter has been remanded back to the Tribunal for assessing the disability both physical, functional and also requirement of future medical expenses. Hence, the order of the Tribunal passed in M.C.O.P.No.179 of 2013 dated 22.04.2015 is hereby set aside.

6. Considering the averments in the Appeal and Cross objection, the Tribunal shall refer the matter to the Medical Board at Coimbatore District and get the report thereafter, pass fresh award within a period of three months from the receipt of the copy of this judgment. The Registry is directed to send back the records forthwith along with the order of this Court.

7. In the result, the Civil Miscellaneous Appeal is allowed. The Tribunal award set aside. Matter remanded for de novo trial. Consequently, connected Cross objection as well as Miscellaneous Petition are closed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

bsm



To,

1. The Motor Accident Claims Tribunal
(Special Subordinate-Judge),
Coimbatore District.

2. The Section Officer,
V.R.Section, High Court, Madras.

C.M.A.No.2817 of 2015
& Cross Objection No.68 of 2016
& M.P.No.1 of 2015

PA (CO)
GMY (17/08/2021)