

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3071 of 2012

and

C.M.P.No.1 of 2012

(Through Video Conferencing)

National Insurance Company Limited,
DIG No.10,
New Delhi,
Represented by its Branch Manager,
Gobichettipalayam,
Erode Main Road, Gobi. ... Appellant/3rd Respondent

Vs.

1. Kader bee
2. Gopalasamy
3. M.C.Sasikumar ... Respondents/Petitioner/
Respondent 1 & 2

(Respondents 2 & 3 exparte in Lower Court and
hence notice may be dispensed with)

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988 against the Judgment and Decree dated
09.02.2007 made in M.C.O.P.No. 103 of 2007, on the file of the
Motor Accidents Claims Tribunal, Additional District Fast Track
Court No.2, Gobichettipalayam.

For Appellant : Ms.Harini
for Mr.N.Vijayaraghavan

For Respondents :

For R1 : Mr.Lokesh
for Mr.Ma.P.Thangavel

For R2& R3 : set exparte

JUDGMENT

With consent of both the learned counsel for the appellant
and the first respondent, this Civil Miscellaneous Appeal is
taken up for final disposal.

2. The Insurance Company is the appellant and is aggrieved by the impugned Judgment and Decree dated 09.02.2007 passed by the Motor Accidents Claims Tribunal (The Additional District Fast Track Court No.2, Gobichettipalayam) in M.C.O.P.No.103 of 2007.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,67,400/- as compensation for the injuries suffered by the first respondent/claimant. While arriving at the aforesaid compensation, the Tribunal has applied multiplier and awarded a sum of Rs.1,35,000/- towards permanent disability and loss of income. The Nature of Injuries suffered by the first respondent/claimant is on the right shoulder clavical fracture.

4. Considering the same, the amount of Rs.1,35,000/- awarded towards permanent disability and loss of income is appears to be excessive. At the same time, the amount awarded at the conventional heads appears to be low.

5. Considering the same, I am inclined to enhance the compensation on the other heads, while reducing the compensation awarded towards permanent disability and loss of income.

6. Accordingly, the total amount of compensation is reduced to Rs.1,19,400/- under the following heads:-

(i) Loss of Income for four months	
Rs.4,000/- (per month)=	
Rs.4,000/- x 4 =	Rs.16,000/-
(ii) Permanent and Partial Disability at 25%	
= Rs.2000x25%	= Rs. 50,000/-
(iii) Pain & Suffering	= Rs. 25,000/-
(iv) Medical Expenses	= Rs. 7,400/-
(v) Attender Charges	= Rs. 5,000/-
(vi) Transportation	= Rs. 5,000/-
(vii) Loss of Amenities	= Rs. 5,000/-
(viii) Extra Nourishment	= Rs. 5,000/-
(ix) Damages to clothing	= Rs. 1,000/-
Total	= Rs.1,19,000/-
Rounded off to	= Rs.1,20,000/-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award Confirmed or enhanced or granted or reduced
1.	Permanent Disability & Loss of income	Rs.1,35,000/-	Rs.50,000/- + Rs.16,000/- = Rs.66,000/- (Towards Permanent Disability & Loss of Income)	Reduced
2.	Pain & Sufferings	Rs.25,000/-	Rs.25,000/-	Confirmed
3.	Medical Expenses	Rs.7,400/-	Rs.7,400/-	Confirmed
4.	Attender Charges	-	Rs.5,000/-	Granted
5.	Transportation	-	Rs.5,000/-	Granted
6.	Loss of Amenities	-	Rs.5,000/-	Granted
7.	Extra Nourishment	-	Rs.5,000/-	Granted
8.	Damages to Clothing	-	Rs.1,000/-	Granted
	Total	Rs.1,67,400/-	Rs.1,19,400/- Rounded of to Rs.1,20,000/-	Rs.1,67,400/- reduced to Rs.1,20,000/-

7. Therefore, the Appellant Insurance Company is directed to deposit the aforesaid amount of compensation of Rs.1,20,000/- after deducting any amount already deposited together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

8. If the amount of compensation of Rs.1,20,000/- has not deposited by the appellant Insurance Company, it is also directed to deposit the same together with interest as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

9. On such deposit being made by the appellant Insurance Company, the first respondent/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Motor Accidents Claims Tribunal,
The Additional District Fast Track Court No.2,
Gobichettipalayam.
- 2.The Section Officer,
VR Section, High Court,
Madras-104.

C.M.A.No.3071 of 2012
and
M.P.No.1 of 2012

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srg 02/02/2021

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