

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.645 of 2016

Rajikumar

.. Appellant/Petitioner

Vs.

1.Siddiq

2.Jeganathan

3.The Regional Manager,

IFFCO-TOKIO General Insurance Company Limited,

No.28, Old No.195, North Usman Road,

T.Nagar, Chennai.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Award dated 04.09.2015 in M.A.C.T.O.P.No.61 of 2013 on the file of the Motor Accident Claims Tribunal(District Judge) at Karaikal.

For Appellant : Mr.R.Saravanan

For Mr.Sai Bharath

For Respondents: For R3 - Mr.C.R.Krishnamoorthy

No appearance for R1 & R2

exparte before the Tribunal

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 04.09.2015 passed in M.A.C.T.O.P.No.61 of 2013.

2. On account of the alleged accident occurred on 12.06.2012 at about 9.00 P.M at Thirunallar to Karaikal Main Road, Opposite to Thakkalur Petrol Bunk, Thirunallar, the Thirunallar Police registered a case in Crime No.82/2012 u/s.279, 338 of IPC.

3. The appellant/claimant sustained grievous injury. He was taking treatment as inpatient and the learned counsel appearing on behalf of the appellant reiterated that the injuries sustained by the appellant are grievous in nature and he is in a vegetative state and unable to perform even his day-to-day

works. Therefore, the award of compensation by the Tribunal is far less than that of the permissible compensation in accordance with the established principles.

4. The learned counsel for the appellant questioned the Multiplier by stating that the monthly income of a sum of Rs.6,000/- fixed by the Tribunal is also lesser in view of the fact that the appellant is a qualified Electrician and produced documents to establish that he passed Wireman test obtained from the Electricity Board of Karaikal for Apprenticeship. In other words, he was an Apprentice under the Electricity Department at Karaikal and therefore, he is a qualified Electrician. The appellant was doing the Electrical works privately and was earning higher amount and therefore, the fixation of Rs.6,000/- as monthly income is improper. Further, the appellant contended that no compensation was granted for the future medical expenses and the compensation of Rs.20,000/- awarded for Pain and Suffering is inadequate and compensation are to be enhanced under all these grounds.

5. The learned counsel appearing on behalf of the respondent/Insurance company objected the contentions by stating that in the absence of income proof, the Tribunal was right in fixing the monthly income as Rs.6,000/- Only in case of production of proof to establish monthly income, the Tribunal can fix income based on certain presumptions and assumptions. Undoubtedly, Ex.P9 document is a certificate obtained from the Electricity Department of Karaikal. However, the appellant/claimant had not established the actual monthly income by examining some independent witnesses or by producing relevant income certificates or by submitting income tax particulars or otherwise. In the absence of any one of these documents, the Tribunal has fixed a sum of Rs.6,000/- as monthly income. Thus, there is no infirmity and the appeal is to be rejected.

6. This Court is of the considered opinion that the Tribunal undoubtedly has considered the issues in a right perspective. However, in the absence of any evidence to establish the salary, the salary which would be normally applicable to a technical person in the society is to be the yardstick to be adopted by the Courts, while fixing the monthly income. Undoubtedly, there cannot be any imaginary figure of salary. However, it must be real and in consonance with the prevailing income with reference to the category, in which, the claimant is working or doing some profession or otherwise.

7. Admittedly, in the present case, Ex.P9 document was produced, wherein the appellant/claimant passed a Wireman test and undergone one year Apprenticeship course with the Electricity Department of Karaikal. Therefore, he is a qualified

Wireman. The qualified wireman is a technical job and therefore, it cannot be compared with the Coolie or other nature of work. The technical works are to be considered in commensuration with the prevailing salary for the particular nature of job. This apart, the appellant is a Bachelor and he sustained grievous injuries and even now, taking treatment and suffering pain.

8. This apart, the learned counsel for the appellant reiterated that he is in a vegetative state and unable to perform his normal works. This being the factum, the Tribunal ought to have granted compensation by fixing the monthly income on the higher side. Normally, the monthly income of Rs.6,000/- is fixed in the cases of Coolie and daily wage employee. However, in case of a technical person, the Courts are bound to fix higher side income, so as to grant compensation in commensuration with the nature of profession or job. The appellant/claimant is a technical employee and he produced wireman certificate and undergone Apprenticeship training with the Electricity Department at Karaikal.

9. This being the factum, this Court is of the considered opinion of fixing a sum of Rs.10,000/- per month as monthly income would be appropriate. In view of the fact that a sum of Rs.10,000/- is fixed as monthly income, the other heads need not be considered for further enhancement.

10. This being the factum, the compensation of Rs.12,63,500/- awarded under the head of future loss of income is to be enhanced by fixing the monthly salary as Rs.10,000/- and accordingly, the appellant is entitled for a compensation of Rs.19,20,000/-. With reference to all other heads, the award of the tribunal stands confirmed. Thus, the total compensation payable to the appellant/claimant would be a sum of Rs.22,51,500/- (Rupees Twenty Two Lakhs Fifty One Thousand and Five Hundred only).

11. The learned counsel for the respondent/Insurance Company made a submission that the entire award amount granted by the Tribunal has already been deposited. Thus, the respondent/Insurance company is directed to deposit the balance amount with accrued interest within a period of six(6) weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is directed to withdraw the entire award amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS. The claimant is liable to pay Court fee for the enhanced compensation.

12. With this modification, the Civil Miscellaneous Appeal stands partly-allowed. No costs.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Kak

To

1.Motor Accidents Claims Tribunal,  
The District Judge,  
Karaikal.

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

+1cc to Mr.T.Sai Krishnan, Advocate, S.R.No.18928

+1cc to Mr.C.R.Krishnamoorthy, Advocate, S.R.No.18882

C.M.A.No.645 of 2016

RJI (CO)  
CB(20/04/2021)



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