

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 3468 of 2017

The Divisional Manager
M/s. Reliance General Insurance Company Limited
Plot No. 2054, Second Floor
Raji's Tower, Second Avenue
Anna Nagar, Chennai.

... Appellant/2nd Respondent

Vs.

1. Sathish @ Sathish Kumar ...1st Respondent/Petitioner

2. K.Munusamy ...2nd Respondents /1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No. 394 of 2013 dated 08.03.2017 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Thiruvannamalai.

For Appellant : Mr. M.B.Raghavan

For Respondents : Mr. K.Suryanarayana (For R1)
No appearance (For R2)

O R D E R

The award of compensation of Rs.11,64,365/- is sought to the reduced in the present appeal filed against the judgment and decree dated 08.03.2017 passed in M.C.O.P. No. 394 of 2013.

2. The accident occurred on 09.02.2012 at about 7.00 p.m. from Thiruvannamalai to Kallakurichi near Pa.Ue.Sa. Nagar. The factum regard the accident was established by the claimant before the Tribunal. There is no dispute regarding the compensation on the side of the appellant /insurance company. The quantum alone is questioned by the appellant/ insurance company.

3. The learned counsel appearing on behalf of the appellant / insurance company mainly contended that the Tribunal has granted

exorbitant compensation under the head of loss of future earnings and excessive, which requires reduction.

4. The learned counsel appearing on behalf of the respondent / claimant disputed the contention raised by the appellant/ insurance company by stating that the Tribunal considered the nature of injury and the occupation details and other particulars regarding the treatment given and accordingly, fixed compensation and there is no infirmity as such and the appeal is liable to be dismissed.

5. This Court is of the considered opinion that the award of compensation of Rs.6,63,000/-. The Doctor has fixed 60% disability and the Tribunal has taken 50% disability.

6. The learned counsel appearing on behalf of the appellant / insurance company made a submission that such assessment was arrived based on the injury sustained on the particular body. In the event of taking a decision to apply the multiplier then the disability is to be assessed on the whole body basis. If the compensation is granted on percentage basis then such a procedure may be proper and reasonable and in the event of application of multiplier then whole body disability is to be considered so as to ensure just compensation is granted to the victim.

7. In the present case, it would be appropriate to fix 30% to over all disability so as to apply compensation. Thus, the compensation is arrived as under:-

1. Loss of earning capacity (Rs.6,500 X 12 X 18/30%)	Rs. 4,21,200/-
2. Pain and sufferings	Rs. 50,000/-
3. Medical expenses and transportation	Rs. 4,41,365/-
4. Extra nourishment	Rs. 20,000/-
5. Attender charges	Rs. 25,000/-
6. Loss of amenities	Rs. 25,000/-
7. Loss of studies	Rs. 30,000/-
Total	Rs. 10,12,565/-

Total award of compensation is fixed as Rs.10,12,565/-.

8. In view of the fact that the total compensation granted by the Tribunal is now reduced as Rs.10,12,565/-, the claimant is entitled for the same along with accrued interest at 7.5% p.a. The appellant/ insurance company is directed to deposit the entire awarded amount along with interest at 7.5% after deducting the amount already deposited if any within a period of six weeks from the date of receipt of a copy of this judgment

and on such deposit, the claimant is permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made only through RTGS. The claimant is liable to pay court fee for the enhanced compensation amount.

9. With this modification, the judgment and decree dated 08.03.2017 passed in M.C.O.P. No. 394 of 2013 is quashed and accordingly, the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

may

To

1.The Special Subordinate Court
Motor Accidents Claims Tribunal
Thiruvannamalai.

Copy to
The Sub Assistant Registrar
V.R. Section
High Court, Madras.

+1 cc to Mr.K.Suryanarayanan, Advocate Sr.No. 21745
+1 cc to M/s.M.B.Gopalan, Advocate Sr.No. 22770

C.M.A. No. 3468 of 2017

RMP (07/04/2021)

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