

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 949 of 2017

The Branch Manager
The New India Assurance Company Ltd.,
Scindia House Branch,
2nd Floor, 13/46 KG Marg,
New Delhi 110
C/o The Divisional Manager
The New India Assurance Company Ltd.,
Divisional Office,
KG Swamy Complex, Bagalur Road,
Hosur 635 001. ... Appellant/2nd Respondent

Vs.
1.Anjali ...1st Respondent/Claimant
2.M/s.Kausar India Ltd.,
No.7 Mile Stone,
Gyani Border,
Shababad, Ghaziabad,
Uttar Pradesh - 201 006.2nd Respondent/Respondent

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.43 of 2014 dated 28.09.2015 on the file of the Motor Accident Claims Tribunal (Subordinate - Judge) at Hosur District.

For Appellant : Mr.J.Chandran

For Respondents Mr.V.Kumaravelan for R1
: R2 - Dismissed vide order dated
22.03.2019

JUDGMENT

(Delivered by M.M.SUNDRESH,J)

This appeal is filed against the quantum alone. The first respondent is a young lady aged about 24 years. Due to the accident, she suffered injury resulting in amputation above knee and plastic surgery was also done. The first respondent stated that she was working as a building contractor. Thus, a sum of Rs.50,00,000/- has been sought for as compensation.

2. The Tribunal, awarded a sum of Rs.14,74,200/- towards loss of income and took into consideration 70% functional disability. By adding the future prospects, the aforesaid amount was arrived at. For the conventional heads such as pain and suffering, medical expenses, extra nourishment, transportation, attendant charges, loss of amenities, future medical expenses, sums of Rs.1,00,000/-, Rs.3,21,000/-, Rs.25,000/-, Rs.20,000/-, Rs.3,02,400/-, Rs.50,000/-, Rs.1,00,000/- and Rs.25,000/- have been awarded as compensation. Thus, in total, a sum of Rs.24,17,600/- has been arrived at which has been rounded off to Rs.24,18,000/-.

3. The learned counsel appearing for the appellant submitted that the amount awarded towards permanent disability is high. Similarly, under conventional heads also, higher amount has been awarded. Therefore, the order of the Tribunal requires interference.

4. The learned counsel appearing for the first respondent would submit that the first respondent was admittedly 24 years old at the time of accident. She was also having a minor girl child to maintain. She was unable to carry out her work due to the injuries suffered in the accident. Therefore, the compensation arrived at by the Tribunal is very reasonable and the appeal will have to be dismissed.

5. As stated, we are only dealing with the quantum. The nature of the injuries suffered by the first respondent is not in dispute. She is self-employed and having a minor girl child to take care of. Now, she cannot work independently and also cannot take care of the child and would require constant assistance. She underwent operation and had her leg amputated and suffered injuries in other parts of the body also. She needs further care by an attendant and will also have to undergo medical treatment in future. Thus, considering the above, we find that the fixation of the compensation at Rs.24,18,000/- is

not excessive. This we do so by taking into consideration the age of the first respondent and the minor girl child. Taking note of the nature of the injuries and the job she was involved in, it is clear that it is impossible for her to do any work in future. In other words, she has to lead her life only with the compensation amount. Thus, we do not find any reason to interfere with the order of the Tribunal and the same stands confirmed.

6. The appellant/Insurance Company is directed to deposit the compensation amount, less the amount, if any, already deposited to the credit of M.C.O.P.No.43 of 2014 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Hosur within a period of eight weeks from the date of receipt of a copy of the judgment.

7. We also direct the Tribunal to transfer the award amount by way of RTGS to the bank account of the first respondent/claimant within a period of three weeks from the date of deposit of the award amount. On such transfer, the claimant is entitled to withdraw the same.

8. In view of the above, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected C.M.P.No.4726 of 2017 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssm
To

The Motor Accident Claims Tribunal,
Subordinate - Judge,
Hosur District.
+1 cc to Mr.V.Kumaravelan Advocate sr3066

C.M.A.No. 949 of 2017

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