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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1275 of 2016
and C.M.P.No.9810 of 2016

The Divisional Manager,
The National Insurance Company Ltd.,
Puducherry. Appellant / 2nd Respondent

versus

1.Chandranath ... Respondent / Petitioner

2.Satheesh Shetti
Managing Director,
Murudeshwar Ceramics Ltd.,
Murudeshwar Bhavan, 604/B, Gokul Road,
Hubli, Karnataka State-580030. ... Respondent / 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 21.12.2015 and made in MCOP No.151 of 2013 on the file of MACT / II Additional District Court at Chidambaram.

For Appellant : Mr.S.Vadivel

For Respondents : Mr.A.Murugan [For R1]
No appearance [For R2]

JUDGMENT

This appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal under the impugned award dated 21.12.2015 passed by the Motor Accident Claims Tribunal [II Additional District Court, Chidambaram] in MCOP No.151 of 2013.



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2.The appellant has challenged the impugned award primarily on the ground that the Tribunal ought not to have adopted the multiplier method for assessing the disability compensation of the first respondent/claimant.

3.The Tribunal under the impugned award directed the appellant Insurance Company to pay the first respondent/claimant a compensation of Rs.3,90,300/- for the injuries sustained by him as a result of an accident on 26.11.2009 caused by a vehicle insured with the appellant. The details of the compensation awarded by the Tribunal are as follows:

Sl. No.	Particulars	Amount Awarded
1	Disability Rs.6,000/-x12x16x30/100	Rs.3,45,600/-
2	Pain and Suffering	Rs. 25,000/-
3	Medical Expenses Exhibit P-5	Rs. 700/-
4	Extra Nourishment	Rs. 5,000/-
5	Attender charges	Rs. 9,000/-
6	Ambulance	Rs. 5,000/-
	Total	Rs.3,90,300/-

4.The first respondent/claimant has sustained injuries in his right and left foot ankle and right leg. The Doctor who examined him has assessed his disability at 30%, as seen from the Disability Certificate which has been marked as Ex.P13 before the Tribunal. The first respondent/claimant has been hospitalized for a period of only one day, which is also evidenced by the Discharge Summary which has been issued by the Government General Hospital, Chennai, which has been marked as Ex.P4 before the Tribunal. The first respondent/claimant was a XI Standard student and was aged about 20 years at the time of the accident. The nature of injuries sustained by the first respondent/claimant as indicated above is an admitted fact. The period of hospitalisation, i.e. for a period of one day, as evidenced from the Discharge Summary [Ex.P4] has not been disproved by the first respondent/claimant by producing any contra evidence to show that he was hospitalized for a longer period of time.

5.As seen from the evidence available on record, the



first respondent/claimant has not established before the Tribunal that on account of the injuries sustained by him, he had lost his future earning capacity. However, the Tribunal without any basis has erroneously adopted the multiplier method while assessing the disability compensation to the first respondent/claimant. This Court is of the considered view that the nature of injuries sustained by the first respondent/claimant will not entitle him to get disability compensation by adoption of the multiplier method. The Doctor has assessed the disability of the first respondent/claimant at 30%. Instead of assessing the disability compensation based on percentage basis, the Tribunal has erroneously adopted the multiplier method and has awarded a huge disability compensation to the first respondent/claimant at Rs.3,45,600/-.

6.In the considered view of this Court, the said compensation is an erroneous assessment. This Court is of the considered view that only on percentage basis, the Tribunal ought to have awarded disability compensation. Hence, considering the year of the accident and considering the percentage of disability suffered by the first respondent/claimant as assessed by the Doctor [P.W.2] at 30%, this Court awards disability compensation of Rs.90,000/- calculated at Rs.3,000/- per percentage of disability for 30% of disability suffered by the first respondent/claimant. Therefore, the compensation awarded by the Tribunal towards the disability of the first respondent/claimant at Rs.3,45,600/- is reduced to Rs.90,000/- by this Court.

7.Further, this Court after giving due consideration to the year of the accident and the nature of injuries sustained by the first respondent/claimant is of the considered view that the compensation awarded by the Tribunal towards Pain and Suffering and Extra Nourishment charges will have to be enhanced and accordingly, the same is enhanced to Rs.30,000/- and Rs.10,000/- respectively by this Court.

8.The Tribunal has also failed to award any compensation towards loss of amenities which the first respondent/claimant is legally entitled to as per settled law. This Court fixes the same at Rs.20,000/-. With regard to the compensation awarded by the Tribunal towards other heads of compensation, namely, Medical Expenses, Attender Charges and Ambulance are concerned, the same is confirmed by this Court.



9. For the foregoing reasons, the compensation awarded by the Tribunal is hereby modified in the following manner :

Sl.No	Particulars	Amount Awarded
1	Disability Rs.3,000/-x30%	Rs. 90,000/-
2	Pain and Suffering	Rs. 30,000/-
3	Medical Expenses Exhibit P-5	Rs. 700/-
4	Extra Nourishment	Rs. 10,000/-
5	Attender charges	Rs. 9,000/-
6	Ambulance	Rs. 5,000/-
7	Loss of Amenities	Rs. 20,000/-
	Total	Rs. 1,64,700

14. In the result, the appeal filed by the appellant / Insurance Company, stands partly allowed by reducing the compensation from Rs.3,90,300/- to Rs.1,64,700/- as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

15. The appellant / Insurance Company is directed to withdraw the excess amount already deposited, if any. The Tribunal is directed to transfer the award amount directly to the bank account of the first respondent/claimant, through RTGS, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

cse

To :

1. The II Additional District Judge,
Motor Accident Claims Tribunal,
Chidambaram.



2. The Section Officer,
V.R. section,
High Court, Madras - 104.

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+1cc to Mr.S.Vadivel, Advocate, S.R.No.25552

+1cc to Mr.A.Murugan, Advocate, S.R.No.25932

C.M.A. No.1275 of 2016

NMI(CO)

SB(29/09/2021)