



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

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CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.1503 of 2016
and
CMP No.11462 of 2016

The National Insurance Company Limited,
1st Floor,
Karthikeya Complex
403, B-10, Mettur Main Road,
Bhavani - 638 302.

... Appellant/2nd Respondent

Versus

1. V. Palanisamy ... 1st Respondent/Petitioner
2. A. Karuppannan ... 2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acts, 1988 against the judgment and decree dated 05.08.2014 in MCOP No.71 of 2013 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Perundurai.

For Appellant : Ms.R.Sree Vidhya

For Respondents : Mr.K.S. Jeyaganeshan

JUDGMENT
(Heard Video Conference)

This appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal under the impugned award dated 05.08.2014 passed by the Motor Accident Claims Tribunal (Sub Judge) at Perundurai in MCOP No.71 of 2013.

2. The appellant / Insurance Company has challenged the impugned award primarily on the ground that the Tribunal has erroneously adopted the multiplier method while assessing the compensation payable to the 1st respondent /claimant. According to them, the nature of injuries sustained by the 1st respondent /



claimant does not legally entitle him to get compensation based on the multiplier method.

3. The Tribunal under the impugned award directed the appellant/Insurance Company to pay the first respondent/claimant a compensation of Rs.6,50,000/- together with interests and costs as detailed hereunder :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of earning capacity	4,91,400
Medical expenses	87,500
Pain and suffering	50,000
Extra Nutrition	20,000
Transportation charges	10,000
For continuous medical treatment	10,000
Total	6,68,900
Rounded off by the Tribunal	6,50,000

4. Heard Ms.R.Sreevidhya, learned counsel for the appellant / Insurance Company and Mr.K.S.Jeyaganeshan, learned counsel for the 1st respondent / claimant. R2 was set ex-parte before the Tribunal, hence notice to R2 is dispensed with.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6.The first respondent / claimant sustained the following injuries as a result of an accident on 12.11.2012 caused by a vehicle owned by the second respondent and insured with the appellant :

- 1) Simple injuries over the head and face
- 2) Bone fracture in the thigh region, malunion and
- 3) Grievous injuries all over the body

7. The nature of injuries sustained by the first respondent / claimant has not been disputed by the appellant / Insurance Company. However, the only dispute they are rising is that the nature of injuries does not entitle the first respondent / claimant to get the compensation for the loss of



earning capacity by adopting the multiplier method.

8. The learned counsel for the appellant drew the attention of this Court to the impugned award and would submit that despite the fact that the first respondent has not suffered the permanent disability on account of injuries sustained by him in his face as well as in his shoulder, the Tribunal has erroneously adopted the multiplier method and has also fixed the disability of the first respondent / claimant at 70%.

9. Before the Tribunal, the first respondent / claimant has filed 10 documents, which were marked as Exs.P1 to P10 and two witnesses were examined viz., the first respondent / claimant as PW1 and Dr.Periyasamy, who examined him as PW2. On the side of the appellant / Insurance Company two documents were filed, which were marked as Ex.R1 and R2 and one witness was examined on their side viz., Rajasekaran, their official as RW1.

10. Admittedly, as seen from the evidence available on record, the first respondent / claimant was not hospitalised as a result of the injuries sustained by him caused by the insured vehicle. He has also not underwent any surgeries as seen from the evidence available on record. The said fact was also not disputed by the learned counsel for the first respondent / claimant before this Court. The Doctor (PW2) who examined the first respondent / claimant has assessed the permanent disability of the first respondent / claimant at 70% based on the injuries sustained by him on the various parts of his body. Since, the first respondent / claimant has not underwent any surgeries and has also not been hospitalised as a result of the injuries sustained by him, this Court is of the considered view that the Tribunal has erroneously adopted the multiplier method for the purpose of assessing the loss of earning capacity of the first respondent / claimant as he has not suffered any permanent disability. This Court is of the considered view that the Tribunal ought to have fixed the loss of earning capacity of the first respondent / claimant on percentage basis, but instead as adopted the multiplier method, which is not correct.

11. The accident happened on 12.11.2012. This Court is of the considered view that it will be a just compensation, if the loss of earning capacity of the first respondent/claimant is calculated at Rs.3,000/- per percentage of disability. This Court therefore, accepts the disability fixed by the Doctor before the Tribunal at 70% but it can only be treated as a partial and permanent disability and not as permanent disability fixed by the Tribunal. Therefore, the loss of earning capacity



fixed by the Tribunal under the impugned award to the first respondent / claimant is reduced to Rs.2,10,000/-, calculated for 70% disability at Rs.3,000/- per percentage of disability, instead of Rs.4,91,400/- fixed by the Tribunal.

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12. This Court is of the considered view that there is no ground for interference with regard to the compensation awarded by the Tribunal under various other heads viz., Rs.87,500/- towards medical bills; Rs.50,000/- towards pain and suffering; Rs.20,000/- towards Transportation charges; Rs.10,000/- towards continuous medical treatment, if the nature of the injuries and the avocation of the first respondent / claimant is taken into consideration.

13. For the foregoing reasons, the award of the Tribunal is hereby reduced in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of earning capacity *Rs.4,500 x 12 x 13 x 70% #Rs.3,000 x 70% x 100	4,91,400 *	2,10,000/- #
Medical expenses	87,500	87,500
Pain and suffering	50,000	50,000
Extra Nutrition	20,000	20,000
Transportation charges	10,000	10,000
For Continuous medical treatment	10,000	10,000
Total	6,68,900	3,87,500
Rounded off by the Tribunal	6,50,000	-

14. In the result, the appeal filed by the appellant / claimant, stands partly allowed by reducing the compensation from Rs.6,50,000/- to Rs.3,87,500/-, as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

15. The appellant / Insurance Company is directed to deposit the entire award amount (reduced amount) as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.71 of 2013 on



the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Perundurai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, 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 thereafter.

16.It is made clear that the appellant / Insurance Company is permitted to withdraw excess award amount, if any deposited by them before the Tribunal.

Sd/-

Deputy Registrar(Accounts)

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Sub Assistant Registrar

vsi2

To

1.The Subordinate Judge
Motor Accident Claims Tribunal
Perundurai.

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

+1cc to M/s.R.Sreevidhya, Advocate SR.No.28299

CMA No.1503 of 2016

RR(CO)
CB(23/11/2021)