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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.09.2021
CORAM
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.M.A. No.3167 of 2013
and MP.No.1 of 2013

M/s.United India Insurance Co. Ltd.,
Motor Third Party Cell,
Regional Office,
No.134, Greams Road,
Chennai 600 006.

...Appellant

Vs.

1. A.Ansari
2. R.Suresh

...respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree in MCOP.No.4905 of 2010, dated 09.01.2013 on the file of the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant :Mr.M.B.Raghavan

For Respondents

for R1 :Mr.Varadha Kamaraj

for Mr.K.Sivakumar

for R2 :Set ex-parte before the Tribunal

J U D G M E N T

[Judgment of the Court was delivered V.SIVAGNANAM, J]

The appeal is heard through video conferencing.

2. Challenging the award passed by the Motor Accidents Claims Tribunal, VI Court of Small Causes, Chennai in MCOP.No.4905 of 2010, dated 09.01.2013, the present appeal has been filed by the Insurance Company.

3. It is the case of the first respondent/claimant that on 06.02.2010 at about 2.30 hours, the claimant was riding as a



million rider in the motorcycle bearing Registration No.TN-20-AW-8166 on GNT Road. When the motorcycle was nearing Moolakadi, a Lorry bearing Registration No.TN-28-Y-2359 belonging to the second respondent, driven by its driver in a rash and negligent manner, dashed against the motorcycle. Due to the impact, the claimant sustained grievous injuries. Hence, the injured laid a claim petition, claiming a sum of Rs.30,00,000/- as compensation.

4. Resisting the claim petition, the Insurance Company filed their counter statement disputing the manner of the accident, age, avocation and income of the deceased and its liability to pay the compensation.

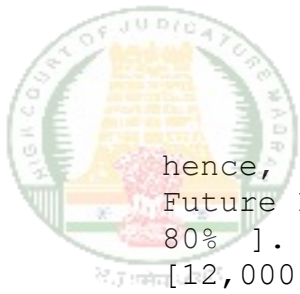
5. To substantiate the case, on the side of the claimant, PW1 to PW3 were examined and Exs.P1 to P11 were marked. On the side of the Insurance Company, neither any oral evidence was let in, nor any document was marked.

6. The Tribunal, after considering the oral and documentary evidence held that the accident had occurred due to the negligence of the driver of the said Lorry and awarded a compensation of Rs.23,66,000/- along with interest at the rate of 7.5% p.a. Assailing the award, the Insurance Company has filed the present appeal.

7. It is the submission of the learned counsel for the appellant / Insurance Company that the Tribunal fixed an exorbitant sum of Rs.15,000/- as monthly income of the deceased without any valid proof and also awarded excessive amounts under different heads. Resultantly, the sum of Rs.23,66,000/- was awarded as compensation to the claimant, which is on the higher side and the same needs proper reduction.

8. Per contra, the learned counsel for the first respondent/claimant made his submissions supporting the award passed by the Tribunal and prayed to dismiss the appeal.

9. On a perusal of records, it is seen that, in the accident, the claimant's right hand above the elbow, was amputated, hence, the claimant could not continue his avocation as before. Therefore, the Tribunal by relying upon Ex.P10 Disability Certificate, rightly fixed the disability of the claimant at 80%. Further, as alleged by the Insurance Company, considering the cost of living prevalent at the time of the accident, this Court is of the view that the sum of Rs.15,000/- fixed as monthly income of the deceased is on the higher side,



hence, the same is reduced to Rs.12,000/-. So, the Loss of Future Earning Power comes to Rs.16,12,800/- [12,000 x 12 x 14 x 80%]. The Loss of Income for 4 months comes to Rs.48,000/- [12,000 x 4].

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10. In addition to that, this Court is inclined to confirm the award passed by the Tribunal under the conventional heads, viz., Rs.10,000/- towards transportation; Rs.10,000/- towards Extra Nourishment; Rs.10,000/- towards Medical Expenses; Rs.10,000/- towards Attender Charges; Rs.1,00,000/- towards Loss of Amenities; Rs.50,000/- towards Pain and Sufferings; In total, the claimant is entitled to Rs.19,50,800/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

11. Thus, the total compensation payable to the claimants is re-calculated and tabulated below:

S. No.	Heads under which amounts are awarded by the Tribunal	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Loss of Future Earning Power	20,16,000	16,12,800
2.	Loss of Income for 4 months	60,000	48,000
3.	Transportation	10,000	10,000
4.	Extra Nourishment	10,000	10,000
5.	Medical Expenses	10,000	10,000
6.	Attender Charges	10,000	10,000
7.	Loss of Amenities	1,00,000	1,00,000
8.	Pain and Sufferings	50,000	50,000
9.	Towards Permanent Disability	1,00,000	1,00,000
	Total Compensation	23,66,000	19,50,800

12. At this juncture, it is represented by the learned counsel for the appellant/Insurance Company that the entire compensation amount awarded by the Tribunal along with interest, had already been deposited to the credit of the claim petition. Since this Court now reduced the compensation amount, the excess amount deposited by the Insurance Company, is ordered to be returned to them.



13. In view of the above modifications, the Civil Miscellaneous Appeal is partly allowed. The claimant is permitted to withdraw the modified award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. The Insurance Company is permitted to withdraw the excess amount, if any paid by them. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Motor Accidents Claims Tribunal,
VI Court of Small Causes, Chennai

+2 ccs to M/s.U.M.Ravichandran Advocate sr44367

+2 ccs to M/s.K.VaradhaKamaraj Advocate sr44191

C.M.A. No.3167 of 2013

bp(co)

aa09/06/2022