



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2852 of 2016

M/s.Royal Sundaram Alliance Insurance Company Limited,
Sundaram Towers,
No.46, Whites Road,
Royapuram, Chennai - 600 014. ... Appellant / 2nd Respondent

..Vs..

1.B.Chandran ... 1st Respondent / Petitioner

2.T.Mangaiyarkarasi ... 2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree in MCOP.No.209 of 2012 dated 01.04.2015 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellants : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

For Respondent 1: Mr.T.G.Balachandran
R2 - Door Locked

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Appellant Insurance Company challenging the impugned award dated 01.04.2015 passed by the Motor Accident Claims Tribunal (VI Court of Small Causes, Chennai) in MCOP.No.209 of 2012.

2. Heard Mr.E.Rajadurai, learned counsel representing Mr.N.Vijayaraghavan, learned counsel for the Appellant/Insurance Company and Mr.T.G.Balachandran, learned counsel for the first respondent/claimant. Since no adverse orders are going to be passed against the second respondent, notice to the second



respondent is dispensed with by this Court.

3. The Appellant Insurance Company has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal is excessive. The details of the compensation awarded by the Tribunal to the first respondent/claimant are as follows:

Heads	Award Amount (Rs.)
Medical expenses	1,27,600/-
Loss of Income	27,000/-
Transportation	5,000/-
Nourishment	5,000/-
Attender Charges	5,000/-
Cloths and Motor cycle	5,000/-
Loss of earning capacity	3,93,120/-
Pain and Suffering	15,000/-
Amenities	15,000/-
Total	5,97,720/-
Rounded off to	5,97,800/-

4. Before the Tribunal, the first respondent /claimant has filed nine documents which were marked as Ex.P1 to Ex.P9 and two witnesses were examined namely, the first respondent /claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant Insurance Company, neither any document was filed nor any witness examined before the Tribunal.

5. The Tribunal has adopted multiplier method for assessing the compensation towards the loss of earning capacity to the first respondent/claimant. However, as seen from the evidence available on record, no evidence has been placed by the first respondent/claimant that due to the injuries sustained by him as a result of an accident, he was unable to do his regular work. The first respondent/claimant sustained the following injuries as a result of the accident viz., fracture of right leg, head injury and he was hospitalised for a period of 11 days from



23.11.2011 to 03.12.2012. He has underwent only one surgery. The Doctor has assessed the disability of the claimant at 45%. The first respondent/claimant was a Centring Contract Maistry and was aged 42 years at the time of the accident. As observed earlier, there is no evidence placed on record by the first respondent/claimant that due to the injuries sustained by him, he has suffered permanent disability. This being the case, this Court is of the considered view that the Tribunal ought not to have adopted multiplier method while assessing the loss of earning capacity to the first respondent/claimant but instead ought to have awarded disability compensation alone. Accordingly, the compensation of Rs.3,93,120/- towards loss of earning capacity awarded by the Tribunal is hereby set aside.

6. The Doctor PW2 who assessed the disability of the first respondent/claimant has assessed the disability at 45% as seen from the disability certificate Ex.P9. The same is accepted by this Court and however, this Court is of the considered view that the disability compensation will have to be fixed at Rs.1,35,000/- calculated at Rs.3,000/- per percentage of disability for 45% disability suffered by the first respondent/claimant. This Court fixes the compensation at Rs.3,000/- per percentage of disability after giving due consideration to the year of the accident which happened in the year 2011. Accordingly, this Court awards a compensation of Rs.1,35,000/- towards disability compensation for 45% disability calculated at Rs.3,000/- per percentage of disability.

7. The Tribunal under the impugned award has granted a compensation of Rs.27,000/- towards loss of income to the first respondent/claimant calculated at Rs.9,000/- per month for a period of three months which in the considered view of this Court is too low and it has to be enhanced. It is evident that the first respondent/claimant would have been unable to do his regular work as a result of the injuries sustained by him, atleast for a minimum period of eight months. Considering the said fact, the compensation towards loss of income to the first respondent/claimant is enhanced to Rs.72,000/- calculated at Rs.9,000/- per month for a period of eight months instead of Rs.27,000/- fixed by the Tribunal.

8. With regard to the compensation payable towards transportation, nourishment and attender charges are concerned,



the same will have to be necessarily enhanced by this Court, since the quantum of compensation fixed by the Tribunal under those heads are low. Accordingly, this Court enhances the compensation payable towards transportation, nourishment and attender charges to Rs.10,000/- each instead of Rs.5,000/- each fixed by the Tribunal.

9. With regard to the compensation payable towards pain and suffering is concerned, the Tribunal has fixed the same at Rs.15,000/- which is too low and it has to be enhanced and accordingly, this Court enhances the same to Rs.35,000/-.

10. Similarly, the compensation awarded by the Tribunal towards loss of amenities at Rs.15,000/- is also low and it has to be enhanced to Rs.25,000/-. With regard to the compensation awarded by the Tribunal towards clothing and motor cycle repairs are concerned, the same is confirmed by this Court as it is a just compensation.

11. With regard to the compensation towards medical expenses awarded by the Tribunal is concerned, the same is confirmed by this court as the same is supported by Ex.P3, Ex.P4 & Ex.P5.

12. For the foregoing reasons, this Court reduces the compensation payable to the first respondent/claimant from Rs.5,97,800/- to Rs.4,29,600/- as detailed hereunder:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Medical expenses	1,27,600/-	1,27,600/-
Loss of Income	27,000/-	72,000/-
Transportation	5,000/-	10,000/-
Nourishment	5,000/-	10,000/-
Attender Charges	5,000/-	10,000/-
Cloths and Motor cycle	5,000/-	5,000/-



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Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of earning capacity	3,93,120/-	--
Disability	--	1,35,000/-
Pain and Suffering	15,000/-	35,000/-
Amenities	15,000/-	25,000/-
Total	5,97,720/-	4,29,600/-
Rounded off to	5,97,800/-	4,29,600/-

Conclusion:

13. In the result, this appeal shall stand partly allowed and the compensation payable to the first respondent/claimant is reduced to Rs.4,29,600/- from Rs.5,97,800/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs.

14. It is represented by the learned counsel for the Appellant Insurance Company that the Insurance Company has already deposited the entire compensation amount of Rs.5,97,800/- awarded by the Tribunal to the credit of MCOP.No.209 of 2012.

15. Since this Court has reduced the compensation, the Appellant Insurance Company is permitted to withdraw the excess amount deposited by them before the Tribunal by filing an appropriate application and the Tribunal is directed to transfer the amount lying to the credit of MCOP.No.209 of 2012 to the bank account of the first respondent respondent/claimant through RTGS within a period of one week from the date of receipt of a copy of this Order. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar



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To

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The Motor Accident Claims Tribunal,
The VI Court of Small Causes,
Chennai

Copy To:

The Section Officer
V.R.Section,
High Court of Madras.

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.29257

C.M.A.No.2852 of 2016

GJ(CO)
SB(22/09/2021)