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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.707 of 2016 &
CMP.No.5708 of 2016

Shriram General Insurance Co. Ltd.
10003-E-8, RIICO Industrial Area,
Sita Pura, Jaipur, Rajasthan - 302022

...Appellant / 2nd Respondent

..Vs..

1.R.Sasibushana Reddy

...Respondent / Petitioner

2.V.Shankar

...Respondent / 1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 11.08.2015 made in M.C.O.P.No.226 of 2013, on the file of Motor Accident Claims Tribunal (Sub Court) Hosur and be pleased to dismiss the claim for compensation.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.Mukund R.Pandiyan for R1
R2-Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance company challenging the Award dated 11.08.2015 passed by the Motor Accident Claims Tribunal (Sub Court) Hosur in M.C.O.P.No.226 of 2013.

2. Heard Mr.S.Dhakshnamoorthy, learned counsel for the Appellant and Mr.Mukund R.Pandiyan, learned counsel for the first respondent. Since the second respondent was set exparte before the Tribunal, 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 as according to them, the Tribunal has erroneously adopted the multiplier method for assessing the compensation towards loss of earning capacity. The Tribunal under the impugned award directed the appellant Insurance company to pay the first respondent/claimant a compensation of Rs.9,48,800/- together with interest and costs as detailed hereunder:

Heads	Amount Awarded by the Tribunal (Rs.)
Loss of earning capacity	7,48,800/- (6500x12x16x60%)
Pain and suffering	50,000/-
Medical Expenses	1,26,000/-
Extra Nourishment	10,000/-
Transportation	5,000/-
Attendant Charges	9,000/-
Total Award	9,48,800/-

4. The first respondent/claimant has sustained the following injuries as a result of an accident on 24.06.2012 caused by a vehicle insured with the appellant:

a. Fracture dislocation of the left shoulder joint.

5. The first respondent/claimant has taken conservative medical treatment in the hospital only for a period of four days from 24.06.2012 to 27.06.2012. He has also taken treatment for spine injury L4,L5 and S1 Discectomy surgery done and was in-patient for the period from 18.09.2014 to 21.09.2014 for another period of three days.

6. It is the case of the appellant Insurance Company that the treatment for the claimant's spine injury was taken after two years from the date of accident and therefore, it is not related to the motor accident. The Appellant also states that even as per the claimants own pleadings, it is clear that the claimants suffered only dislocation of his left shoulder and he did not suffer any spine injury as a result of the accident.

7. This Court has also examined the evidence available on record. No sufficient evidence has been adduced by the claimant before the Tribunal to prove that he has sustained spine injury as a result of the accident. While that be so, the Tribunal ought not have adopted multiplier method for assessment of



compensation towards loss of earning capacity of the claimant. Instead the Tribunal ought have assessed the disability compensation based on percentage basis. Hence, this Court sets aside the compensation awarded by the Tribunal for a sum of Rs.7,48,800/- towards loss of earning capacity by adopting the multiplier method. Instead this Court fixes the disability compensation for the claimant at Rs.2,40,000/- for 60% disability suffered by the claimant calculated at Rs.4000/- per percentage of disability, since the accident happened on 24.06.2012. However, this Court makes it clear that the compensation of Rs.4,000/- per percentage of disability by this Court cannot be treated as a precedent for future matters as the same has been fixed by this Court based on the nature of the injuries and the facts and circumstances of this case alone.

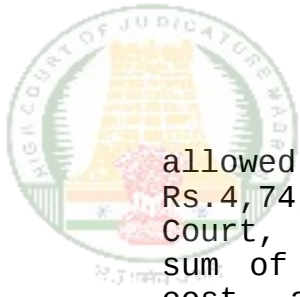
8. Insofar as the compensation awarded by the Tribunal towards pain and suffering at Rs.50,000/- and Medical expenses at Rs.1,26,000/- is concerned, the same is confirmed by this Court as it is a just compensation.

9. However, this Court is of the considered view that the compensation awarded by the Tribunal under the heads extra nourishment at Rs.10,000/-, Transportation at Rs.5,000/- and Attender charges at Rs.9,000/- will have to be enhanced as it is low. Accordingly, this Court enhancing the same to Rs.20,000/-, Rs.20,000/- and Rs.18,000/- respectively.

10. For the foregoing reasons, this Court reduces the compensation to Rs.4,74,000/- from Rs.9,48,000/- fixed by the Tribunal as detailed hereunder:

Heads	Amount Awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of earning capacity	Rs.6500x12x16x60% = Rs.7,48,800	Nil
Permanent Disability	Nil	Rs.4000 x60% = Rs.2,40,000/-
Pain and suffering	Rs.50,000/-	Rs.50,000/-
Medical Expenses	Rs.1,26,000/-	Rs.1,26,000/-
Extra Nourishment	Rs.10,000/-	Rs.20,000/-
Transportation	Rs.5,000/-	Rs.20,000/-
Attendant Charges	Rs.9,000/-	Rs.18,000/-
Total Award	Rs.9,48,000/-	Rs.4,74,000/-

11. In the result, this Civil Miscellaneous Appeal is partly



allowed by reducing the Award amount from Rs.9,48,000/- to Rs.4,74,000/-. At the time of granting interim stay by this Court, the Appellant Insurance Company has already deposited a sum of Rs.4,74,000/- together with proportionate interest and cost and the first respondent/claimant has also withdrawn the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

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Sub Assistant Registrar

msv

To

The Motor Accident Claims Tribunal,
(Sub Court), Hosur.

+1cc to Mr.S.Dhakshnamoorthy, Advocate SR.No.26571
+1cc to Mr.Mukund R.Pandiyar, Advocate SR.No.27090(30/05/2022)

C.M.A.No.707 of 2016

MG(CO)
RVM(22/09/2021)