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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1489 of 2021

Yoganandham

...Appellant/Claimant

Vs.

1. Raja

S/o.Munusamy

(Notice for R1 may be dispensed with and
separate petition has been filed for the same)
N/A in the record.

2. The New India Assurance Company Limited,

39-C, Bye-Pass road,

Dharmapuri - 636 701.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree order dated 27.07.2018 made in M.C.O.P.No.379 of 2015, on the file of the Motor Accidents Claims Tribunal cum Subordinate Judge Court, Sankari.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Ms.A.Salomi for
Mr.D.Ramesh Babu for R2

JUDGMENT

This appeal has been filed by the claimant against the impugned judgment and decree dated 27.07.2018 passed by the Motor Accident Claims Tribunal cum Subordinate Judge Court, Sankari in M.C.O.P.No.379 of 2015.

2.By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.58,00,000/- as compensation for the following injuries. The Court has noted the fact that the above injuries have resulted in 100% functional disability.

3.The present appeal is confined only to the issue of failure on the part of the Tribunal to award any amount towards future prospects. In this connection, the learned counsel for the appellant submits that the Tribunal ought to have added another 40% towards future prospectus.

4.Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submits that the



Tribunal has awarded a just compensation under Section 166 of the Motor Vehicle Act, 1988 and therefore submits that the award amount may be confirmed by dismissing the present appeal. She further submits that the appellant had already completed 31 years (30 years and 3 months) on the date of accident and therefore the Tribunal ought to have considered the correct multiplier 16 as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

5. Heard the learned counsel for the appellant and the respondent and also perused the impugned judgement and decree.

6. This case is of 100% permanent disability as per Ex.P.24-Disability Certificate. The Tribunal has also concluded that there is also 100% functional disability. The Tribunal has correctly adopted the multiplier. However it failed to award any compensation towards future prospects as per the decision of the Hon'ble Supreme Court in Sanjay Varma Vs Haryana Roadways reported in (2014) 3 SCC 240. In my view, the appellant has made out a case for enhancement of compensation. The appellant was aged about 30 years and was working as a Technician in JPP Mills Private Limited, Thiruchengode. Under these circumstances, there shall be a enhancement of compensation at 40% towards future prospects on Rs.33,15,500/- at Rs.13,26,000/-.

7. In the result, the award amount of Rs.58,00,000/- enhanced by another sum of Rs.13,26,000 has detailed below:-

Loss of Earning capacity	Rs.46,41,000
Monthly notional Income (Rs.16,250x12x17)	
Rs.33,15,000	
+ Future prospectus 40%	Rs.13,26,000

Rs.46,41,000	
Medical Expenses	Rs.20,34,000
Pain and suffering	Rs. 2,00,000
Transportation	Rs. 1,00,000
Cost of Attender	Rs. 50,000
Nutrition Food	Rs. 75,000
Loss of property	Rs. 1,000
Future Medical Expenses	Rs. 25,000
Total	Rs.71,26,000/-



8. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.71,26,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of eight weeks from the date of receipt of a copy of this Judgment.

9. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/ claimant is permitted to withdraw the amount together with interest accrued thereon, less any amount already withdrawn, if any, by filing suitable application before the Tribunal.

10. The appellant/claimant is directed to remit the deficit Court fee within a period of six weeks from the date of receipt of a copy of this order. Only on such deposit of deficit court fee, the Registry shall draft the decree of this Judgment. It is also made clear that there will be no interest for a period of 387 days being the delay in filing the present appeal as per order dated in C.M.P.No.4300 of 2021.

11. This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The New India Assurance Company Limited,
39-C, Bye-Pass road, Dharmapuri - 636 701.
2. The Motor Accidents Claims Tribunal
cum Subordinate Judge Court, Sankari.
3. The Section Officer,
V.R.Section, Madras High Court,
Madras.

+1cc to Mr.C.Kulanthaivelu, Advocate, S.R.No.26085

+1cc to Mr.C.Rameshbabu, Advocate, S.R.No.25923

C.M.A.No.1489 of 2021

RSV(CO)

RGA(14/09/2021)