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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3213 of 2021
and
C.M.P.No.18331 of 2021

M/s Shriram General Insurance Company Limited
E-8, RIICO Industrial Area
Sitapura, Jaipur, Rajasthan-302 022.
Rajasthan State.

... Appellant/2nd Respondent

Vs.

1.M.Ranjith @ Ranjith Kumar
(Rep by his wife and Next friend,
Mrs.Sulocshana)

...1st Respondent/Petitioner

2.M.Imam Hussain Jamkanam

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree dated 25.10.2019 made in M.C.O.P.No.13 of 2016 on the file of the Motor Accident Claims Tribunal cum Sub Ordinate Court, Attur.

For Appellant : Mr.K.Poomalai

For Respondents : Ms.Ramya V.Rao for R1

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

This Civil Miscellaneous Appeal arises out of the order passed by the Motor Accident Claims Tribunal cum Sub Ordinate Court, Attur, in M.C.O.P.No.13 of 2016, dated 25.10.2019.

2.For the sake of convenience, parties are referred to as per their ranking in the claim petition.



3.It is the case of the claimant that on 08.01.2016, he along with his two other friends traveled in a car, to buy a paddy harvesting machine from Karim Nagar, Telangana. The Car was driven by Selvakumar and its Registration No.TN 31 AJ 1155. At about 04.30 am., when they were near Kannimetta Village, a lorry belonging to the 1st respondent bearing registration No.AP 29 U 7299 driven by its driver came from the High Light Dhaba Hotel towards back side, without noticing the oncoming car dashed against it. As a result of which, the claimant sustained grievous injuries on his head. Immediately, he was taken to SVS Medical College Hospital, Mahabub Nagar and thereafter he was shifted to Yasoda Hospital, Hyderabad, and there he was treated as an in-patient for a period of 14 days for "Skull Bone Injury". Due to the accident, the claimant underwent various surgeries at various point of time and suffered with 68% of total permanent disability. Therefore, he laid a claim petition for compensation of Rs.60,00,000/-.

4.Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the claimant and its liability to pay the compensation. It was also stated that the compensation claimed is excessive and imaginary.

5.To substantiate the case, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P.1 to Ex.P.18 were marked. On the side of the respondents, neither the witnesses nor the documents were marked. On appreciation of evidence, the Tribunal awarded Rs.37,35,100/-.

6.Assailing the award passed by the Tribunal, the appellant Insurance Company has filed the present appeal.

7.The learned counsel for the appellant Insurance Company has contended that the award is on the higher side by wrongly fixing the excessive monthly income of the claimant as Rs.16,800/- and it requires reduction. Apart from the amount awarded under the head of "Loss of earning capacity", the claimant was awarded for a sum of Rs.3,00,000/- towards "loss of income during treatment" and a sum of Rs.2,04,000/- towards "Permanent disability". Therefore, the amounts awarded under the heads of Loss of income during treatment and Permanent disability needs to be set aside.

8.Per contra, the learned counsel appearing for the respondents/claimants submits that the Tribunal has passed a well-reasoned award and the same does not require any



interference by this Court.

9.This Court carefully considered the submissions of the learned counsel for the appellant Insurance Company and the learned counsel appearing for the 1st respondent/claimant and perused the materials available on record.

10.Perusal of the records would reveal that the claimant has completed his bachelors degree in Botany and he was aged about 37 years at the time of accident. It is further seen that the claimant pleaded that he owns a harvesting machine and thereby earning a sum of Rs.30,000/- p.m.,. In support thereof Exs.P.11 to 13 were marked. Therefore, the monthly income fixed by the Tribunal cannot be said to be on the higher side. As rightly pointed out by the learned counsel for the appellant, the Tribunal has awarded an amount of Rs.3,00,000/- under the head of "loss of income during treatment" and Rs.2,04,000/- under the head of "Permanent Disability" notwithstanding the amount of Rs.20,56,300/- ordered under the head of "Loss of earning capacity", which cannot be countenanced. Hence the amounts awarded under the heads of "loss of income during treatment" and "Permanent Disability" are hereby set aside. The amount awarded under the other heads remain unaltered. Hence, the compensation awarded by the Tribunal to the claimant is re-quantified as follows:-

Heads	Amounts awarded by the Tribunal	Amounts awarded by this Court
Loss earning capacity	Rs.20,56,300/-	Rs.20,56,300 /-
Medical expenses	Rs.6,37,800/-	Rs.6,37,800/-
Loss of amenities	Rs.1,00,000/-	Rs.1,00,000/-
Loss of income during treatment	Rs.3,00,000/-	----
Pain and sufferings	Rs.2,00,000/-	Rs.2,00,000/-
Transportation expenses	Rs.35,000/-	Rs.35,000/-
Loss of clothes	Rs.2,000/-	Rs.2,000/-
Extra nourishment	Rs.1,00,000/-	Rs.1,00,000/-
Permanent Disability	Rs.2,04,000/-	----



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Heads	Amounts awarded by the Tribunal	Amounts awarded by this Court
Attendant charges	Rs.1,00,000/-	Rs.1,00,000/-
Total	Rs.37,35,100/-	Rs.32,31,100/-

11. In view of the above modification, the Civil Miscellaneous Appeal is partly allowed. The claimant would be entitled for a sum of Rs.32,31,100/-, which is rounded off to Rs.32,30,000/- together with interest at 7.5% p.a., from the date of the claim petition till the date of realisation. The appellant Insurance Company is directed to deposit the modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is entitled to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

Jer
To

1.The Motor Accident Claims Tribunal cum
Sub Ordinate Court
Attur.

Copy to:The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1cc to M/s.K.Poomalai, Advocate SR.No.59376
+2cc to M/s.Ramya V.Rao, Advocate SR.No.60152

C.M.A.No.3213 of 2021
and
C.M.P.No.18331 of 2021

GMR(CO)
CB(04/01/2022)