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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1255 of 2020

Shankar

... Appellant/Claimant

Vs

1.Ramachandran.R

2.The Branch Manager,

M/s.Cholamandalam MS General,

Insurance Company Ltd.,

100 Feet Road (opp. to MPL Ford),

Mudaliarpet, Puducherry-4.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 09.01.2020 in M.A.C.T.O.P. No.233 of 2016 on the file of the Principal Subordinate Judge, Presiding Officer, Motor Accident Claims Tribunal at Puducherry, in so far as it relates to the quantum of compensation.

For Appellant : Ms.Janani for M/s.T.Sai Krishnan

For Respondents: Ms.S.R.Sree Vidhya (for R2)

R1 : Exparte

J U D G M E N T

The claimant is on appeal terming the compensation of Rs.2,27,200/- awarded to him for the injury suffered in a motor accident that occurred on 17.09.2014 as meagre.

2.According to the claimant, while he was riding a two wheeler from Puducherry to Villupuram on the extreme left side of the road, a load carrier vehicle bearing Registration No.PY01-BY-3849 coming in the opposite direction driven in a rash and negligence manner, dashed against the petitioner's motor cycle, as a result, the petitioner was thrown out of the vehicle and he suffered Degloving Injury over dorsum of right



side foot till bone depth; Laceration over the right knee about 07x08 cms extending to bone depth and; the Metatarsal fracture for the 2nd and 3rd fingers of the right foot. He was admitted as inpatient on 17.09.2014 and was discharged on 09.10.2014. The claimant had assessed the compensation payable to him at Rs.49,10,500/-.

3.The claim was resisted by the Insurance Company contending that the accident did not occurred in the manner suggested by the claimant. There was a delay in filing the police complaint. The claim made was termed as highly excessive. The Tribunal upon consideration of the evidence held that the driver of the goods vehicle bearing registration No.PY01-BY-3849 was responsible for the accident and that the Insurance Company is liable to pay the compensation. The Tribunal assessed the quantum of compensation under various heads as follows:

S.No.	Heads	Amount Rs.
1	Pain and Sufferings	50,000
2	Medical expenses	30,000
3	Future Medical expenses	10,000
4	Loss of comfort and basic amenities	10,000
5	Rich and nutritious food	10,000
6	Transport expenses	6,200
7	Attender charges	33,000
8	Loss of income	42,000
9	Permanent Disability	36,000
	Total	2,27,200

4.The Tribunal also found that the claimant had produced forged bills for physiotherapy and they were rejected.

5.I have heard Ms.Janani, learned counsel appearing for the appellant and Ms.S.R.Sree Vidhya, learned counsel appearing for the respondents.

6.Ms.Janani, learned counsel appearing for the appellant would vehemently contend that the Tribunal erred in awarding only a sum of Rs.36,000/- towards permanent disability. The Tribunal should have adopted the multiplier method instead of percentage method in assessing the compensation for permanent



disability. She would also termed the award of Rs.10,000/- for future medical expenses as meagre.

7.I have considered the submissions of the learned counsel for the appellant.

8.The nature of injuries suffered do not justify the claim. The fractures which can be called as grievous injuries or injuries which could result in permanent disability are only Metatarsal fractures on the the 2nd and 3rd toe on the right leg. These are not very serious injuries and they will not result in any permanent disablement, leave alone functional disablement. However, in view of the assessment of permanent disability at 12% by the medical personnel, the Tribunal has awarded a sum of Rs.36,000/- (12% X Rs.3000/-). I do not see any reason to interfere with the award of the Tribunal. As regards future medical expenses also, the award of Rs.10,000/- would be more than sufficient as there is very remote possibility of any future medical expense on the nature of injuries. In fact, I find that the award for attendant charges and loss of income are on the higher side. However, since the Insurance Company has not filed an appeal challenging the same, the award is left undisturbed. The Civil Miscellaneous Appeal fails and it is accordingly dismissed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Vs
To

1. The Principal Subordinate Judge, Presiding Officer,
Motor Accidents Claims Tribunal,
Puducherry.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

+1cc to Mr.T.Saikrishnan, Advocate Sr.64123
+1cc to M/s.R.Sreevidhya, Advocate Sr.63578

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srg 07/02/2022