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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3586 of 2019
(Through Video Conferencing)

Govindan

...Appellant/Petitioner

Vs.

1. M/s.Sri Manakula Vinayaga Educational Trust,
Rep by its Authorised Signatory
No.23 and 24, Mariamman Koil Street,
Madagadipet, Puducherry.

2. The Divisional Manager,
TATA AIG General Insurance Company Limited,
No.10-A, Duraisamy Pillai Street,
West Tambaram,
Chennai.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 03.11.2018 passed in M.A.C.T.O.P.No.1129 of 2016, on the file of the Additional Sub Court, Motor Accident Claims Tribunal, Puducherry.

For Appellant : Mr.D.Senthil Kumar

For R1 : No Appearance

For R2 : Mr.J.Michael Visuvasam

JUDGMENT

The Claimant is the appellant in this appeal.He is aggrieved by the compensation awarded by the Tribunal in its judgment and decree dated 03.11.2018 in MACTOP.No.1129 of 2016 passed by the Motor Accident Claim Tribunal, Additional Sub Court, Puducherry. In this appeal, the appellant seeks to claim enhancement of compensation.

2. By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.11,44,541/- under the following heads.



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Permanent disability	Rs.1,80,000/-
Pain and Sufferings	Rs.2,00,000/-
Medical Expenses	Rs.6,81,445/-
Loss of Income	-----
Rich and Nutritious Food	Rs.25,000/-
Attender Charges	Rs.20,000/-
Transport Expenses	Rs.38,096/-
Total	Rs.11,44,541/-

2. The learned counsel appearing for the appellant submits that the appellant was an employee in Puducherry Tourism Development Corporation. The appellant was not entitled to any pension on his retirement and therefore, the Tribunal ought to have considered the above while awarding compensation to the appellant. It is further submitted that the Tribunal has taken the same for awarding compensation though as per the decision of the Hon'ble Supreme Court in the case of Raj Kumar Vs Ajay Kumar and Another, (2011) 1 SCC 343. He further submitted that the Tribunal ought to have award amounts towards loss of amenities, loss of cloth and towards loss of expectations of life on account of the injuries suffered by the claimant.

3. Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/Insurance company submits that the impugned judgement and decree is well reasoned and requires no interference. He further submits that the decision of the Hon'ble Supreme Court in Raj Kumar Vs Ajay Kumar and Another, (2011) 1 SCC 343 is not applicable to the facts of the case in as much as no functional disability has arisen on account of injury. It is submitted that the petitioner was a white collar employee and was working as an Assistant Manager with Puducherry Tournism Development Corporation. It is further submitted that the appellant suffered injury in left leg due to the accident that there is no functional disability or loss of income for the Tribunal to award compensation by applying multiplier.

4. Heard the learned counsel for the appellant and the learned counsel for the respondent.

5. Though the injury sustained by the appellant is grievous in nature and as a result while there is the amputation of left leg as stated in the impugned order, I am of the view, that the Tribunal ought to have awarded compensation towards loss of amenities and towards compromise in the quality of life.

6. Considering the above facts that the appellant aged about



54 years at the time of accident and may not have any scope of undertaking any post retiral job after retirement from the Puducherry Tourism Development Corporation, I am inclined to enhance a compensation of Rs.11,44,541/- awarded by the Tribunal by another sum of Rs.10 lakhs towards loss of amenities and towards compromise in quality of life of the appellant. The amounts awarded by the Tribunal towards other expenses appears reasonable and are therefore confirmed. Thus, the total amount of compensation awarded by the Tribunal is enhanced to Rs.21,44,541/- from Rs.11,44,541/-.

7. Accordingly, the 2nd respondent insurance company is directed to deposit a sum of Rs.21,44,541/- (Rs.11,44,541 + Rs.10,00,000/-) together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of payment to the credit of MACTOP.No.1129 of 2016 before the Motor Accidents Claim Tribunal, Additional Sub Court, Puducherry, less any amount already deposited within a period of eight (8) weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant is entitled to withdraw the same together with interest accrued thereon, less the amount if any, already withdrawn by filing suitable application before the Tribunal.

8. This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

drl

To:

1. The Motor Accidents Claims Tribunal,
Additional Sub Court,
Puducherry.
2. The Section Officer,
VR Section, High Court, Madras.

+lcc to Mr.J.Michael Visuvasam, Advocate, S.R.No.22983

+lcc to Mr.D.Senthil Kumaar, Advocate, S.R.No.23190

C.M.A.No.3586 of 2019

PP(CO)

RGA(30/09/2021)