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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Miscellaneous Appeal No.2718 of 2021

S.Thangarasu

... Appellant/Petitioner

Vs.

1. A.Thangavel

2. The Oriental Insurance Company Limited,
'Oriental House', 2nd Floor,
Old No.115, New No.216, Prakasam Salai,
Broadway, Chennai 600 108.

... Respondents

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, to enhance the amount awarded in MCOP No.2782 of 2018 dated 03.03.2020 on the file of Motor Accident Claims Tribunal, (Small Causes Court, 2nd Special Sub Judge), Chennai.

For Appellant : Mr. K.Varadha Kamaraj

For Respondents : Mr.D.Bhaskaran for R2

No appearance for R1

J U D G M E N T

The injured claimant is on Appeal terming the compensation of Rs.9,53,000/- awarded to him as insufficient. According to the claimant he sustained injuries in a road accident that occurred on 04.04.2018 on Vellore- Tiruvannamalai Main Road. Claiming that the negligence on the part of the driver of the lorry bearing Registration No.TN 67 P 5953, as the cause for the accident, the claimant would seek compensation of Rs.40,00,000/-.

2. The second respondent/Insurance Company resisted the claim contending that the accident did not occur in the manner suggested by the claimant/plaintiff. The very involvement of the



lorry was denied. It was also contended that the compensation claimed is excessive and imaginary.

3. The Tribunal considered the evidence and concluded that the accident occurred due to the negligence of the lorry driver and the Insurance Company as the insurer of the lorry is liable to pay the compensation. The Insurance Company has accepted the award and did not challenge the same.

4. As regards the quantum, the Tribunal adopted a sum of Rs.10,000/- as the monthly income and arrived at the loss of earning capacity at Rs.7,26,000/-. The Tribunal added 10% towards future prospects and adopted a multiplier of 11 to assess the compensation for loss of earning power. The Tribunal also awarded a sum of Rs.55,000/- towards pain and suffering, Rs.20,000/- towards transportation, Rs.25,000/- towards Extra Nourishment, Rs.2,000/- towards damage to clothing, Rs.55,000/- towards loss of amenities, Rs.25,000/- for mental agony, Rs.25,000/- for attender charges, Rs.20,000/- for future Medical Expenses. Thus the total compensation was arrived at Rs.9,53,000/-.

5. Mr.Varadhakamaraj, learned counsel appearing for the claimant would vehemently contend that adoption of Rs.10,000/- as monthly income is really on the lower side, considering the fact that the accident occurred during the year 2018. According to the learned counsel even taking the wages paid to NMR employees, employed by the State PWD, the income should be fixed at least at Rs.15,000/- per month.

6. Mr.Baskaran, learned counsel appearing for the Insurance Company would submit that in the absence of any evidence of income, the Tribunal was justified in assuming the notional income at Rs.10,000/-. He would also point out that the award under the head of loss of amenities and mental agony are on the higher side.

7. I have considered the rival submissions.

8. The contention of the learned counsel for the claimant based on the wages that are being paid to the Non-muster Roll employees in the State PWD, cannot be brushed aside. Taking into account the wages that is paid to the NMR employees and giving an allowance to certain holidays the notional monthly income could be reasonably fixed at Rs.13,000/-, adding 10% towards future prospects, the total loss of earning capacity would be

$$\text{Rs.14,300/-} \times 12 \times 11 \times 50/100 = \text{Rs.9,43,800/-}$$



Though, it is contended that the award under the head of loss of amenities and mental agony are on the higher side, since no amount has been awarded for loss of income during the period of treatment and immediately thereafter, I do not propose to disturb the award on those counts.

9. In light of the above, the award of the Tribunal is modified and the compensation is granted as follows:

S.No.	Heads	Amount (Rs.)
1.	Permanent Disability	9,44,000/-
2.	Pain and suffering	55,000/-
3.	Transportation to Hospital	20,000/-
4	Extra Nourishment	25,000/-
5	Damage to Clothing	2,000/-
6	Loss of Amenities	55,000/-
7	Mental Agony	25,000/-
8	Attender Charges	25,000/-
9	Future Medical Expenses	20,000/-
	Total	11,71,000/-

The same is rounded off to Rs.11,70,000.00

10. In view of the above, the appeal is partly allowed. The Insurance Company is directed to deposit the award amount as per the modified award, less the amount, if any, already deposited, with appropriate interest as granted by the Tribunal to the credit of MCOP No.2782 of 2018, within a period of eight (8) weeks from the date of receipt of a copy of the judgment. On such deposit, the claimant is permitted to withdraw the same. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

jv



To

1. The II Special Sub Judge),
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

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

+1cc to Mr.K.Varadha Kamaraj, Advocate SR.No.67716

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SVI (CO)
CB(20/01/2022)