



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No. 3157 of 2021

and

C.M.P. No. 17843 of 2021

Reliance General Insurance Company Limited,
T.P. Cell No.6, Reliance House,
Haddows Road, Nungambakkam,
Chennai - 600 006.

...Appellant/2nd Respondent

Vs.

1. Balasubramanian
2. T. Ilakkiya

...1st Respondent/Petitioner
...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P. No. 3030 of 2017, dated 11.03.2021, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Ms. C. Harini for
M/s.M.B.Gopalan Associates

JUDGMENT

This Appeal has been filed by the Appellant Insurance Company challenging the impugned award dated 11.03.2021 passed by the Motor Accident Claims Tribunal, III Small Causes Court, Chennai on the ground that the quantum of compensation awarded by the Tribunal is excessive.

2. Heard, Ms. C. Harini, learned counsel representing M/s.M.B.Gopalan Associates for the Appellant. Since no adverse orders are going to be passed against the respondents, notice to the respondents is dispensed with by this Court.

3. The Tribunal under the impugned award directed the Appellant Insurance Company to pay the first respondent a compensation of Rs.15,26,600/- together with interest and cost as detailed hereunder.



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Heads	Awarded by the Tribunal in Rs.
Pain and Sufferings	50,000
Extra Nourishment and Transportation	50,000
Medical Bills	8,86,783
Loss of amenities	50,000
Damages to clothes	1,000
Attender charges	13,600
Loss of earning due to disability	4,75,200
Total	15,26,583
Rounded off to	15,26,600

4. As a result of an accident on 07.03.2017 caused by a vehicle insured with the Appellant, the first respondent/claimant has sustained the following injuries namely (a) Fracture Right Supracondylar of Femur (b) Fracture Left Shaft of Femur, (c) Swelling and Tenderness over Both Thigh, (d) Laceration in Occipital Region and (e) Multiple injuries all over the body.

5. The injuries sustained by the first respondent/claimant has not been disputed by the Appellant Insurance Company before the Tribunal. Before the Tribunal, the first respondent/claimant has filed the discharge summaries issued by the respective hospitals which have been marked as Ex.P7, Ex.P8, and Ex.P9 and other medical records which have been marked as Ex.P10, P11, Ex.P12, Ex.P13 and Ex.P19.

6. The Medical Board has assessed the whole body disability of the first respondent/claimant at 40%. The first respondent/claimant was hospitalized for almost 35 days and the period of his hospitalization has also not been disputed by the Appellant Insurance Company before the Tribunal. The Tribunal after giving due consideration to the nature of injuries sustained by the first respondent/claimant and the medical records produced by him as well as the disability certificate produced by the Medical Board has adopted the multiplier method for assessing the loss of earning capacity of the first respondent/claimant. This Court does not find any infirmity in the findings of the Tribunal as regards the adoption of the multiplier method.



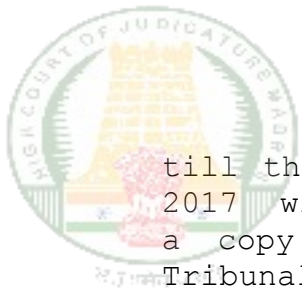
7. In the claim petition, the first respondent/ claimant has pleaded that he was a weaver, aged 58 years and was earning Rs.25,000/- per month at the time of the accident. However, the Tribunal has fixed the monthly income of the first respondent/ claimant on notional basis at Rs.10,000/-, since no documentary evidence was produced by him in support of his monthly income. The accident happened on 07.03.2017. This Court is of the considered view that the fixation of the notional income of the first respondent/claimant at Rs.10,000/- by the Tribunal cannot be considered to be excessive as alleged by the Appellant Insurance Company.

8. The Tribunal has awarded Rs.50,000/- towards pain and suffering, Rs.50,000/- towards extra nourishment and transportation, Rs.8,86,783/- towards medical bills, though the medical bills were produced by the medical board for Rs.10,36,783/-, Rs.50,000/- towards loss of amenities, Rs.1,000/- towards damages to clothing and Rs.13,600/- towards attender charges which cannot be considered to be excessive as alleged by the Appellant Insurance Company. Having sustained grievous injuries and having been hospitalized for a long period of time and having incurred recurring medical expenses, this Court does not find any infirmity in the assessment made by the Tribunal.

9. The Tribunal has awarded a sum of Rs.4,75,200/- towards loss of earning due to disabilities suffered by the first respondent/ claimant by adopting multiplier method by taking into consideration 40% as whole body disability of the first respondent/ claimant. After giving due consideration to the nature of injuries sustained by the first respondent/ claimant which is grievous in nature, the Tribunal has also awarded 10% towards loss of future prospects which cannot be considered to be incorrect and therefore the same is confirmed by this Court.

10. For the foregoing reasons, the compensation of Rs.15,26,600/- awarded by the Tribunal cannot be considered to be excessive as alleged by the Appellant Insurance Company. Hence, there is no merit in this Appeal and accordingly, this Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

11. The Appellant Insurance Company is directed to deposit the award amount, after deducting the amount already deposited if any, together with interest from the date of claim



till the date of deposit to the credit of M.C.O.P. No. 3030 of 2017 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No. 3030 of 2017 to the bank account of the first respondent/ claimant within a period of one week thereafter.

s/d-
Assistant Registrar(CS-VI)

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Sub-Assistant Registrar

ab/nl
To

1. The Motor Accidents Claims Tribunal,
III Court of Small Causes,
Chennai
2. The Section Officer,
V.R. Section,
High Court, Madras.

C.M.A. No. 3157 of 2021
and
C.M.P. No. 17843 of 2021

NK(CO)
SP(09/12/2021)