

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2022	PRONOUNCED ON : 10.06.2022
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C O R A M :

The Hon'ble Mrs. Justice J. NISHA BANU

C.M.A.No.1334 of 2014
and M.P.No.1 of 2014

The Divisional Manager
National Insurance Co Ltd,
Divisional Office, Jawaharlal Nehru Street
Pondicherry 605 001 ..Appellant/2nd respondent

Vs

1.Rajiveesingh @ Rajveekumarsingh ..Respondent 1/Petitioner

2.A.Ramalingam ..Respondent No.2/1st respondent.

PRAYER : CMA filed under Section 173 of Motor Vehicles Act, 1988, against the decree made in MACTOP.No.1628 of 2008 on the file of Motor Accident Claims Tribunal (I Additional Subordinate Judge) Cuddalore dated 22.10.2013.

For Appellant : Mr.Mr.M.Krishnamoorthy

For Respondents : R1 - No appearance
R2 - Exparte before the tribunal.

JUDGMENT

The Insurance company has filed this appeal challenging the quantum of compensation awarded by the Tribunal to the injured claimant.

2. The only ground raised by the appellant in this appeal is that the tribunal awarded excessive compensation of Rs.4,79,600/- for the injuries sustained by the claimant/first respondent herein. The tribunal ought to have rejected the assessment of 55% made by P.W.2, but ought to have adopted scientific method to arrive at compensation for disability. The tribunal also failed to follow the guidelines to fix the

percentage of disability. The amount of Rs.2,97,600/- awarded under the head "medical expenses" is unjustifiable.

3. Since the argument of the learned counsel for the appellant is only on the point of quantum of compensation, the undisputed findings of the Tribunal regarding the factum of accident, fixation of liability and negligence is not discussed in the present appeal.

4. The first respondent sustained head injury, right frontal and inferior thalamic contusion in the accident occurred on 08.05.2008. This is an accident involving two motor cycles.

5. Ex.P.4-Accident Register copy, Ex.P.5 Scan Report, Ex.P.6 follow up C.T. Scan Report, revealed that the claimant sustained fracture in the left temporal and parietal bones. Ex.P.7, Ex.P.16 and Ex.P.17 - Discharge Summary showed the nature of injury sustained, treatment given to the first respondent, Further Disability Certificate - Ex.P.18 is given by Ortho Doctor/P.W.2 assessing 55% permanent disability. So it is apparent that based on the evidence let in before it and by following the decision reported in 2010 (1) TNMAC 48, the Tribunal carefully perused and determined the compensation. As far as disability is concerned, by fixing Rs.2000/- per percentage of disability, taking 55% disability as assessed by the doctor, Rs.1,10,000/- is awarded. [$\text{Rs.2000/-} \times 55\% \text{ disability} = \text{Rs.1,10,000/-}$]. In the facts and circumstances of the case, the learned Judge has fixed Rs.2000/- per percentage of disability. On going by the Medical Report and treatment, the Tribunal ought to have applied multiplier method, but fixed Rs.2000/- per percentage of disability, which need not be interfered with.

6. That apart, tribunal granted compensation of Rs.10,000/- towards Transport to Hospital, Rs.10,000/- for extra nourishment and Rs.2000/- towards damage to clothing and article. The said compensation is also just and proper, therefore, the same stands undisturbed.

7. The injured claimant claimed Rs.2,65,000/- towards expenditure for treatment at Punnar Jeevan, Chennai, a Rehabilitation Centre. The tribunal observed that even after receipt of summons, none turned up for evidence; the alleged treatment and expenditure remain unproved and so relying on Ex.P.16-Discharge summary, Diagnosis showing Delusional disorder, Post head injury sysdrom and also finding that Ex.P.12 read in consonance with Ex.P.16 and Ex.P.17, awarded Rs.2,97,600/- towards medical expenses.

8. Based on principle laid down in 2010 (1) TNMAC 582, Tribunal awarded Rs. 25,000/- for Pain and suffering, Rs.25,000/- for Loss of amenities and enjoyment in life. Altogether, Rs.4,79,600/- is awarded as compensation to the claimant.

9. Looking at any angle, the findings and compensation rendered by the Tribunal, after elaborately discussing the injury, treatment undergone by the injured claimant and also by following the principles laid down by this Court, cannot be said to be arbitrary or excessive one.

10. In view of the foregoing observation, this court finds no ground made out to interfere with the award of the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed. The Award dated 22.10.2013 stands confirmed. The appellant/insurance company is directed to deposit the award amount with interest and cost, if not already deposited. The first respondent/claimant is entitled to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri

To

The Motor Accidents claims Tribunal,
(I Additional Subordinate Judge)
Cuddalore.

C.M.A.No.1334 of 2014

JPL (CO)
PR (28/07/2022)