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CMA.No.880 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.880 of 2014

and

M.P.No.1 of 2014

The Branch Manager
National Insurance Co.Ltd.,
Branch Office
P.B.No.15, No.1, Govindasamy Pillai Street
Near Old Bus stand
Salem 636 001

... Appellant
/2nd Respondent

Vs.

1.K.Selvakumar

2.P.Boopathy

..Respondents.

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree dated 17.04.2012 made in MCOP.No.108 of 2006 on the file of Motor Accident Claims Tribunal, Principal Subordiante Judge, Krishnagiri.



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For Appellant : Mr.S.Arunkumar
For Respondents : R1- Mr.M.Selvam
R2- Notice dispensed with

JUDGMENT

The appellant-Insurance Company has filed this appeal challenging the liability and quantum of compensation in the Award dated 17.04.2012.

2. The first respondent herein is the injured claimant. He filed MCOP.No.108 of 2006 claiming a sum of Rs.11,00,000/- for the injuries he sustained in the accident that occurred on 12.10.2002.

3. The Tribunal, based on Ex.A.2-Accident Register copy, Ex.A.3-Wound Certificate, Ex,A.4 Discharge summary, observed that injured had undergone surgeries for his fracture in both legs by plate and nailing and he suffers stiffness of foot muscles and malunion of bones and he is able to walk sliding to his left. On going through Ex.A.24 disability certificate, age of injured i.e, 40 years, adopted multiplier 16, taken 50% disability and awarded Rs.6,37,920/- as compensation towards permanent disability.

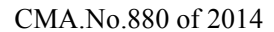


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4. Though appeal is filed challenging liability and quantum, learned counsel for the appellant raised his arguments only in respect of quantum of compensation. It was argued by the learned counsel for the appellant/Insurance company that the injured claimant who was working as Assistant in computer Section in TNSCTC is still continuing his job and now working as Computer Operator in TNSCTC, so the injuries sustained cannot in any way lead to loss of earning capacity and therefore, the assessment of compensation by the Tribunal under the head permanent disability by adopting multiplier method is not justified.

5. The principle consistently followed by the Honourable Supreme Court and this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident. These general principles have been stated and reiterated in several decisions. So the question now arise for consideration is as to whether in the case on hand, multiplier to be adopted for 50% permanent disablement sustained by the 1st respondent/injured.

6. It is not the case of injured that the permanent disability is one leads



7. Insofar as the compensation under other heads, for pain and suffering, the Tribunal granted Rs.20,000/-. But no amount is awarded to the claimant who suffered loss of income during the period of treatment i.e, for three months. Considering the nature of injuries sustained by the first respondent/claimant, for the above stated heads, i.e, for Pain and Suffering, Rs.50,000/- is granted as compensation and taking Rs.6645/- as monthly income, for the treatment period $\text{Rs.6645/-} \times 3 = 19,935/-$ is granted as compensation.

8. Except for the above modification, the amounts of compensation granted by the Tribunal under other heads is concerned, the same remains unaltered. The modified compensation is as under:-



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Sl.No.	Particulars	Amount of compensation granted by the Tribunal	Amount of Compensation modified enhanced/confirmed by this Court
1.	Disability 50%	6,37,920/-	1,50,000/-
2.	Pain and suffering	20,000/-	50,000/-
3.	Medical bills	1,95,974/-	1,95,974/-
4.	Travel Bill	18,539/-	18,539/-
5.	Moor Cycle repair Bill	4,291/-	4,291/-
6.	X ray bill	670/-	670/-
7.	Loss of income during the period of treatment	---	19,935/-
	Total	8,77,394/-	4,39,409/-

9. In the result, the Civil Miscellaneous Appeal is partly allowed, modifying/reducing the compensation from Rs.8,77,394/- to Rs.4,39,409/-. While granting stay of the award, this court by order dated 08.04.2014, directed the appellant-insurance company to deposit entire award amount with accrued interest and costs. As per the modified compensation, the appellant is permitted to withdraw the excess amount in deposit. The first respondent/claimant is entitled to withdraw the compensation as ordered above. No costs. Consequently, connected Miscellaneous Petition is closed.

17.03.2022

nvsri



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To

- 1.The Principal Subordiante Judge,
Motor Accident Claims Tribunal,Krishnagiri.
- 2.The Section Officer, VR Section, High Court, Madras.



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J.NISHA BANU,J.

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