IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2022

CORAM:

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.600 of 2022
and
C.M.P.Nos.4323, 10384 and 10385 of 2022

The Manager,
United India Insurance Co.Ltd.,
Third Party Claim Hub,
Silingi Building, IV Floor,
No.134, Greams Road,
Chennai 600 006 ... Appellant

vs.

1.C. Ayyappan

2. S. Balaji ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.12.2019 in M.C.O.P.No.2201 of 2016 passed by the II Court of Small Causes, MACT-Chennai.

For Appellant : Mr.Sankaranarayanan

For Respondent-1 :M/s.P.T.Saleem Fathima,
Caveator Counsel

JUDGMENT

The Appellant-Insurance Company has questioned the quantum of compensation granted by the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai in M.C.O.P.No.2201 of 2016 as being on the higher side.

2. The facts in brief are narrated herein below with the parties being referred to in the same ranking as before the Tribunal.

3. The petitioner had filed the above claim petition seeking compensation of a sum of Rs.20,00,000/- for the injuries sustained by him in a road accident on 14.03.2006 involving the first respondent's Tavera Car, bearing Registration No.TN-222-DB-4898 which is insured with the second respondent-Insurance Company. The petitioner had sustained the following injuries:

"Fracture right pubic bone, with compound G3, both bone fracture proximal 1/3rd of right leg and multiple injuries all over the body"

The Insurance Company is aggrieved by the fact that the monthly notional income has been fixed at a sum of Rs.20,000/- without there being any proof for the same.

4. The learned counsel for the appellant-Insurance Company would submit that except for stating that the petitioner is running a dairy farm, there is no proof of the same but for the filing of certain payment receipts, all of which look created for the purpose of getting a compensation.

5. The learned counsel for the first respondent/petitioner would refute the said statement.

6. Heard the learned counsels and perused the records available on record.

7. As contended by the learned counsel for the appellant-Insurance Company, Ex.P17 series, which are alleged payment receipts, does look prepared for the sake of getting compensation as all the bills look identical and appears to have been created on the same by the same person, therefore the same has to be discarded. The accident had taken place on 14.03.2006 and the first respondent/petitioner is aged about 42 years. Even assuming that he is employed as a daily wage earner, he would definitely earn a sum of Rs.12,000/- per month. Therefore, the notional income is reduced to a sum of Rs.12,000/-. Further, the Tribunal has fixed the disability at 40% adopting the percentage that has been granted by the Medical Board under Ex.C1 as the disability for calculating the loss of earning capacity. Future prospects has not been taken into account by the Tribunal below. Considering the age of the petitioner, 25% is added towards the future prospects. The relevant multiplier is 14. Therefore, the compensation under the head of disability would be Rs.10,80,000/- [Rs.12,000/- + 25% x 12 x 14 x 40%]. Therefore, the re-worked compensation would be as follows:-

Heads	***Amount by the Tribunal in Rs.***	***Amount Awarded by this Court in Rs.***
Loss of Disability	**13,44,000**	**10,08,000**
Pain and Sufferings	2,00,000	2,00,000
Extra Nourishment	75,000	75,000
Transport to Hospital	50,000	50,000
Damages to clothes	1,000	1,000
Attender Charges	9,600	9,600
Medical Expenses	6,02,031	6,02,031
Future Medical Expenses	50,000	50,000
Loss of Income	60,000	60,000
Loss of Amenities	25,000	25,000
Total	**24,16,631**	**20,80,631**

8. Therefore, the Civil Miscellaneous Appeal is partly allowed and the compensation of **Rs.24,16,631.00** awarded by the Tribunal is hereby reduced to a sum of **Rs.20,80,631.00** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The appellant-Insurance Company is directed to deposit the said amount **Rs.20,80,631.00** to the credit of M.C.O.P.No.2201 of 2016 together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a

period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, as apportioned by the Tribunal, after adjusting the amount if any already withdrawn. In case the Insurance Company has already deposited the Award amount, the Insurance Company is permitted to withdraw the same. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

05.08.2022

Index : Yes / No
Speaking Order : Yes / No
srn

To

1. The II Judge,
Motor Accident Claims Tribunal,
Chennai.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

P.T.ASHA, J.,

srn

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