



C.M.A.No.2800 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.2800 of 2014 and M.P.No.1 of 2014

The Branch Manager,
National Insurance Company Limited,
Branch Office, Anuradha Complex,
Opp. To Raja Theatre,
Bangalore Road, Krishnagiri-635 001

.. Appellant

-Vs.-

1. Sakthi @ Sakthivel
2. R. Tamilvanan

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award and Decree dated 24.01.2014 made in M.C.O.P.No.491 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.

For Appellant ... Mr.S.Arunkumar
For Respondent-1 Mr.Mukund R.Pandiyan
For Respondent-2 ... Served-No Appearance

JUDGMENT

The Insurance Company has filed the above appeal challenging the quantum of compensation granted by the Motor Accident Claims Tribunal,



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Special Subordinate Judge (MACT), Krishnagiri in M.C.O.P.No.491 of 2013.

2. The appellant is particularly aggrieved by the fact that the Tribunal had granted compensation under the head of loss of earning capacity by adopting a multiplier method.

3. The learned counsel for the appellant-Insurance Company would submit that the petitioner has not let in any evidence to show that by reason of the injuries sustained by him, there has been a loss of earning capacity or that he has not been able to function as before. Therefore, the adoption of multiplier method for calculating the loss of earning capacity is totally misplaced. The petitioner has suffered a fracture of the left foot lower third tibia and condylar screw fixation. The Doctor who was examined as P.W.2 had assessed the disability at 40%. The Tribunal below has totally erred in calculating the compensation by adopting the multiplier method.



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4. The learned counsel for the petitioner would submit that the accident has resulted in a disability and has affected the earning capacity of the petitioner. Therefore, the Tribunal has rightly adopted the multiplier method and the same does not require any re-consideration.

5. A perusal of the records would show that the petitioner has only sustained the following injuries:

- (i) Sutured laceration left knee.
- (ii) Fracture of right ankle

X-ray : Left ankle – Fracture L/3 Fibula

Fracture in the hip, left foot fracture.

There is no evidence to show that the disability is of a permanent nature and the petitioner has not been able to carry on his day-to-day activities or carry on with his avocation.

6. In the light of the above, the adoption of multiplier method for calculating the compensation is misplaced. The Doctor has assessed the disability at 45%, the same shall be adopted. Considering the year of the



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accident, a sum of Rs.3,000/- per percentage can be taken into account.

Therefore, the amount payable under the head of loss of earning capacity would be a sum of Rs.1,35,000/- (Rs.3,000 x 45%). Therefore, the Compensation awarded by the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by this Court (in Rs.)</i>
1	Loss of earning capacity	1,35,000 (Rs.3,000 x 45%)
2	Pain and Suffering	50,000
3	Partial loss of income	27,000
4	Medical expenses	11,863
5	Future medical expenses	10,000
6	Extra Nourishment and Transport to hospital	20,000
7	Attender charges	10,000
	TOTAL	2,63,863

7. This appeal is partly allowed and the impugned Award of the Tribunal is modified, reducing the compensation amount from Rs.5,05,063.00 to Rs.2,63,863.00. The appellant-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.491 of 2013 along with interest at the rate of 6% per annum from the date of claim



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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 judgment. On such deposit being made, the claimant is permitted to withdraw the award amount now determined by this Court, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. In other respects, the Award of the Tribunal is hereby confirmed. The Insurance Company is permitted to withdraw any excess amount, if any deposited by them. There shall be no order as to costs in the present appeal. Consequently, connected miscellaneous petition is closed.

09.11.2022

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To

1. The Motor Accident Claims Tribunal,
Special Sub Judge, Krishnagiri.
2. The Section Officer,
V.R. Section, High Court, Madras.



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P.T.ASHA, J.,

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