



C.M.A.(MD)No.1015 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2022

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

C.M.A.(MD)No.1015 of 2022

S.Srinivasan

... Appellant/Petitioner

Vs.

1. S.Dharma Raj

2. The Manager,
Cholamandalam MS General Insurance,
2nd Floor, Dare House,
No.2, NSC Bye Pass Road,
Chennai – 600 001.

3. The Superintendent of Police,
The Superintendent of Police Office,
Subramaniyapuram,
Trichy – 20.

4. The Inspector of Police,
Kollidam Police Station,
Kollidam No.I, Toll Gate,
Manachanallur Taluk,
Trichy District.

... Respondents/Defendants



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Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, to set aside the Judgment and Decree passed in M.C.O.P.No. 08 of 2017 dated 07.04.2022 on the file of the Motor Accident Claims Tribunal (3rd Additional Sub Court) Trichy.

For Appellant : M/s.M.Vasanthi

For Respondents : Mr.D.Ramesh Kumar for R1
SR stage – No appearance

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.8 of 2017 dated 07.04.2022 on the file of the Motor Accident Claims Tribunal / 3rd Additional Subordinate Court, Tiruchirappalli.

2. The appellant/claimant, who was awarded with compensation of Rs.1,96,587/- with interest at 7.5% per annum and costs for the disability suffered, consequent to an accident occurred on 11.06.2016, challenged the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. The learned counsel appearing for the appellant/claimant would submit that wound certificate issued at Atlas Hospital reveals that the appellant/



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claimant sustained multiple injuries all over the body, whereas, the Government Board Doctor Panel, without any valid examination and any medical test, has fixed the disability at 7%, which is very ambiguous and vague in any respect, that the appellant/claimant has been suffering from various issues from the date of accident, that the disability assessed by the Medical Board at 7% is very much low and the same is very much against the findings recorded by the medical experts at Atlas Hospital and that the trial Judge, by awarding Rs.5,000/- per percentage, has failed to consider the permanent disability sustained by the appellant/claimant and his inability to do his work.

4. The learned counsel appearing for the appellant/claimant would further submit that the appellant/claimant was working as a Senior Accountant in a private company and was earning Rs.13,000/- per month and despite producing a letter from the company, the same was not considered and the Tribunal erred in fixing Rs.7,000/- as monthly income, that the appellant/claimant has suffered heavy loss due to the accident, that the amounts awarded under the various heads are on lower side and that though the appellant/claimant has claimed Rs.10,00,000/-, the award was passed for a sum of Rs.1,96,587/-, which is very much low and without any basis.



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5. The case of the appellant/claimant is that due to the accident, he suffered various injuries on his right forehead, right ankle, back hands and right knee left index finger and throughout the body, that he also sustained bone injuries on his right chest portion, that he was immediately taken to Atlas Hospital, Trichy, through 108 ambulance and was admitted as inpatient on 11.06.2016 and was discharged on 14.06.2016, that he had taken treatment as outpatient for a period of two months and that he had spent Rs.1,00,000/- towards medical expenses.

6. It is the further case of the appellant/claimant that he was aged 59 years at the time of accident and was working as a Senior Accountant in a private concern and was earning Rs.12,000/- per month.

7. It is evident from medical records that the appellant/claimant sustained fractures on right side 3-5 ribs and the same has been shown as “Right side 3-5 Ribs fracture and soft tissue injury scalp”. The Medical Board, after assessing him, has fixed the disability at 7%.

8. It is not the case of the appellant/claimant that apart from ribs fracture, he sustained some other bone injuries.



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9. Since the disability was assessed at 7%, the Tribunal has rightly applied percentage method and taking note of the decision of this Court in ***M.Chinnathambi vs. S.Deepa and other*** reported in **2020 TN MAC 617** and also the fact that the accident was occurred in 2016, has rightly awarded Rs.5,000/- per percentage of the disability at Rs.35,000/-.

10. Considering the nature of the injuries and the disabilities suffered, the question of adopting and applying multiplier method does not arise at all.

11. The Tribunal has awarded Rs.50,000/- for pain and suffering, Rs.15,000/- for discomfort, Rs.10,000/- for future medical expenses, Rs.21,000/- for loss of income, Rs.28,496/- for medical expenses, Rs.10,000/- for extra nourishment, Rs.10,000/- for attendant charges, Rs.10,000/- for transportation, Rs.5,000/- for loss of cloth and articles and Rs.2,091/- for the damages caused to the two-wheeler, all totalling Rs.1,96,587/-.

12. Though the appellant/claimant has alleged that the amounts awarded under the various heads are on lower side, he has not elaborated anything further.



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13. As already pointed out, the appellant/claimant has suffered ribs fracture and was taking inpatient treatment for the period between 11.06.2016 and 14.06.2016.

14. Considering the nature of the injuries, period of treatment, nature of the disability and other attending circumstances, the amounts awarded at Rs.50,000/- for pain and suffering, Rs.15,000/- for discomfort, Rs.10,000/- for extra nourishment, Rs.10,000/- for attendant charges, Rs.10,000/- for transportation and Rs.5,000/- for loss of cloth and articles are very much reasonable and the same cannot said to be on lesser side.

15. Though the appellant/claimant has produced the medical bills under Ex.P.6 for Rs.42,883/-, the Tribunal, considering the fact that the same bills were taken twice for calculation, has rightly awarded Rs.28,496/- for medical expenses and Rs.10,000/- for future medical expenses.

16. The appellant/claimant has alleged that he was working as a Senior Accountant in a private concern and was earning monthly salary of Rs. 12,000/- and produced his salary certificate as Ex.P.11 and whereunder, it has been shown that he was getting monthly salary at Rs.13,000/-. The Tribunal,



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taking note of the fact that the said salary certificate was issued on 25.05.2012 and considering the date of accident, age of the appellant/claimant and his avocation, has fixed the monthly income as Rs.7,000/- and considering the nature of the injuries and period of treatment, has rightly awarded loss of income for three months at Rs.21,000/- and as such, the same cannot be found fault with. Moreover, the appellant/claimant, by alleging that his two-wheeler suffered damages and produced the bills for repairs under Ex.P.10, the Tribunal, taking note of the fact that the bills were issued prior to the date of accident, has only awarded Rs.2,091/- for repair expenses.

17. Considering the above, the amounts awarded under the various heads by the Tribunal are perfectly in order and the same are not liable to be interfered with. The appellant/claimant has not canvassed any other reason or ground to impugned the award. Hence, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed.

18. In the result, this Civil Miscellaneous Appeal is dismissed. Parties are directed to bear their own costs.

07.11.2022

Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

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