



CMA.No.514 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.514 of 2015

MP.No.1 of 2015

The Divisional Office
United India Insurance Company Limited
Bhavani 638301

Appellant

Vs

1. Srinivas
2. Palanisamy

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated,22.09.2014, made in MCOP.No.925 of 2013, by the Additional District Judge (MACT) Namakkal.

For Appellant : Mr.I.Malar

For Respondents : Mr.K.Muthukumarasamy-R1

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the judgement and decree,dated,22.09.2014, made in MCOP.No.925 of 2013, by the Additional District Judge (MACT) Namakkal.
2. The 1st Respondent has filed the claim petition before the Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the injuries sustained by him in a motor road accident, which took place on 12.07.07.2013. The 2nd Respondent, who is the owner of the offending vehicle, remained exparte. The claim petition was resisted, on various



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grounds, by the Appellant Insurance Company, by filing a counter. On the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P11 were marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle, the Tribunal has awarded a total compensation of Rs.5,38,938/- (Rounded off to Rs.5,40,000/-), with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income	432000.00
2	Medical Expenses	72938.00
3	Extra Nourishment	5000.00
4	Pain and Suffering	25000.00
5	Transportation Expenses	5000.00
Total Compensation		539938.00

Aggrieved by the quantum of compensation, this appeal has been filed by the Insurance Company.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellant, without considering the medical records, the disability arrived at by the Tribunal at 40% is excessive, when the claimant suffered only fracture of left leg tibia and febula



bone and hence, the compensation awarded under the head of loss of income needs to be reduced. According to the learned counsel for the 1st Respondent, the impugned compensation is just and proper.

7. As per Ex.P2 wound certificate, the deceased was aged 42 years old at the time of the accident. In the absence of proof to show the monthly income of the injured, the Tribunal rightly fixed the monthly notional income of the injured at Rs.6,000/-. However, the Tribunal erred in fixing the disability at 40% when the injured suffered only fracture of left leg tibia and fibula bone. Hence, it would be appropriate to fix the disability at 25% for such injury. Accordingly, the total loss of income would come to Rs.2,70,000/- (Rs.6000x12x15x25/100). The compensation awarded under other heads are confirmed.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.3,77,938/-, (Rupees three lakhs seventy seven thousand nine hundred and thirty eight only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income	270000.00
2	Medical Expenses	72938.00
3	Extra Nourishment	5000.00
4	Pain and Suffering	25000.00
5	Transportation Expenses	5000.00
Total Compensation		377938.00



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A.A.NAKKIRAN, J.

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The Appellant / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation with interest, by filing proper application. No costs. Consequently, the connected MP is closed.

13.06.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Additional District Judge (MACT) Namakkal
2. The Record Keeper, VR Section, High Court, Madras

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