



CMA.No.186 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.186 of 2018
Cross Objection No.25 of 2018

M/s.United India Insurance Company Limited
Salem 636007

Appellant-CMA/
R1-Cross Objection

Vs

1. R.Thangavelu

Cross Objector /
R1-CMA

2. M/s.Prasad and Company Project Works Limited
Hyderabad 560016

R2-CMA and Cross Objection

Prayer:- These Civil Miscellaneous Appeal and the Cross Objection have been filed, against the judgement and decree, dated, 25.04.2017, made in MCOP.No.2445 of 2010, by the Special Subordinate Court No.I (MACT) Salem.

For Appellant : Mr.N.Vijayaraghavane-CMA

For Respondents : Mr.K.Kuppusamy-R1-CMA

JUDGEMENT

1. These Civil Miscellaneous Appeal and Cross Objection have been filed, respectively by the Insurance Company and the claimant, against the judgement and decree, dated, 25.04.2017, made in MCOP.No.2445 of 2010, by the Special Subordinate Court No.I (MACT) Salem.
2. The claimant/cross objector has filed the claim petition before the Tribunal,



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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 18.06.2010.

The claim petition was resisted, on various grounds, by the Appellant Insurance Company, by filing a counter. The 2nd Respondent Company, owner of the offending Lorry remained exparte. On the side of the claimant, PW.1 and PW.2 examined and Ex.P1 to Ex.P18 were marked. Ex.C1 to C3 were marked.

3. Finding that the claimant sustained injuries in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the 2nd Respondent, the Tribunal has awarded a total compensation of Rs.9,56,000/- 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 Future Income	537600.00
2	Pain and Suffering	50000.00
3	Medical Expenses	106600.00
4	Extra Nourishment	10000.00
5	Attendants Charges	20000.00
6	Loss of Amenities	50000.00
7	Permanent Disability	50000.00
8	Loss of Income During The Period Of Treatment	32000.00
9	Transportation Expenses	10000.00
10	Future Medical Expenses	25000.00
11	Damages to Clothes	800.00
Total Compensation		892000.00

Aggrieved by the same, these appeal and the cross objection have been filed by the Appellant/ Insurance Company and the claimant respectively.

4. This Court heard the learned counsel on either side, considered their



submissions and also perused the entire materials placed on record.

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5. According to the learned counsel for the Appellant/ Insurance Company, the compensation awarded under the head of loss of earning capacity is on the higher side, considering the nature of injuries suffered by the claimant and the compensation awarded under the heads of disability and loss of income cannot be sustained. On the other hand, it is the contention of the claimant/ cross objector that the impugned award of the Tribunal is just and proper.
6. 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.
7. The claimant was aged 43 years old at the time of the accident. Considering the income tax returns, Ex.P10 the Tribunal rightly fixed the monthly income of the claimant at Rs.8000/-. Though it is claimed by the claimant that he suffered multiple injuries and fractures all over the body, as seen from the medical records, the claimant suffered fracture on his left thigh, as also found by the Tribunal. However, the Tribunal fixed the disability at 50%, which is not proper. It would be appropriate to fix the disability at 15%. Thus, the compensation awarded under the head of loss of earning capacity is reduced to Rs.2,01,600/- ($\text{Rs.8000} \times 12 \times 14 \times 15/100$) and consequently, the compensation awarded under the heads of disability and loss of income are set aside. The compensation awarded under the other heads are retained. In



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all, the claimant is entitled to a total compensation of Rs.4,74,000/- with interest 7.5% p.a. from the date of the petition till the date of realisation.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.4,74,000/-, (Rupees four lakhs seventy four thousand 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 Future Income	201600.00
2	Pain and Suffering	50000.00
3	Medical Expenses	106600.00
4	Extra Nourishment	10000.00
5	Attendants Charges	20000.00
6	Loss of Amenities	50000.00
7	Transportation Expenses	10000.00
8	Future Medical Expenses	25000.00
9	Damages to Clothes	800.00
Total Compensation		474000.00

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 amount with interest, by filing proper application. No costs. Consequently, the Cross Objection is dismissed.

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Index:Yes/No

Web:Yes/No



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Speaking/Non Speaking
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A.A.NAKKIRAN, J.

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To

1. The Special Subordinate Court No.I (MACT) Salem.
2. The Record Keeper, VR Section, High Court, Madras

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