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C.M.A.No.2705 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.M.A.No.2705 of 2023
and
C.M.P.Nos.25000 of 2023

Reliance General Insurance Company Ltd.,
Rai's Tower, 2nd Floor,
Plot No.2054, 2nd Avenue,
Anna Nagar, Chennai – 600 040.

...Appellant

Vs.

1.Shubhra Mishra

2.T.Venkatesan

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 24.07.2019 passed in MCOP.No.2477 of 2012 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.



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For Appellant : Mr.P.Suresh Srinivasan

J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

The Insurance Company is on appeal. Challenge is to the award of a sum of Rs.1,07,94,145/- for the 100% functional disability suffered by the claimant in a road accident that occurred on 20.03.2012. The claimant, who was a pedestrian was knocked down by the lorry. As a result of the accident, the claimant suffered multiple injuries in the vertebra. Atleast 3 of the vertebral bones had suffered a fracture. Claiming that the disability is 100% and he needs to be taken care of for life time, the claimant who was 23 years old at the time of the accident had sought for a compensation of Rs.2,00,00,000/-.

2. The claim was resisted by the Insurance Company contending that the accident did not occur in the manner suggested by the claimants. It was also contended that the compensation claimed is very excessive and the claimant was put to strict proof of earning and disability.



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3. At trial, before the Tribunal, the claimant was examined as PW1 and one Dr.Rajalakshmi, St.John's Medical College Hospital, Bangalore was examined as PW2. Exs.P1 to P18 were marked.

4. Since the Insurance Company did not let in any evidence on the manner in which the accident took place, the Tribunal on the evidence available came to a conclusion that the accident had occurred due to the rash and negligent driving of the driver of the lorry.

5. On the quantum, the Tribunal had taken Ex.P7 to fix the salary of the deceased at Rs.29,061/- and had added 50% towards future prospects and arrived at the monthly income at Rs.43,591.50/-. It applied the multiplier '18'. Thus, the total loss of earning power was arrived at Rs.94,15,764/-. As regards the disability is concerned, the Tribunal believed the evidence of the Doctor, who was examined on the side of the claimant and found that the injuries that are evident from the discharge summaries, medical prescriptions and other medical documents marked



including X-ray and CT Scans, accepted the claim of the petitioner that he had suffered 100% disability. Thus the Tribunal granted the compensation under various heads as follows:-

<i>1.Towards Pain and Sufferings</i>	<i>Rs.2,00,000/-</i>
<i>2.Towards Transport and Extra nourishment</i>	<i>Rs.2,00,000/-</i>
<i>3.Loss of earnings due to functional disability</i>	<i>Rs.94,15,764/-</i>
<i>4.Towards Loss of amenities</i>	<i>Rs.2,00,000/-</i>
<i>5.Medical expenses</i>	<i>Rs.3,43,381/-</i>
<i>6.Loss of marital prospects</i>	<i>Rs.2,00,000/-</i>
<i>7.Damages to clothes</i>	<i>Rs.2,000/-</i>
<i>8.Attender charges</i>	<i>Rs.33,000/-</i>
<i>9.Future medical Expenses</i>	<i>Rs.2,00,000/-</i>
<i>Total Compensation</i>	<i>Rs.1,07,94,145/-</i>

Hence, the appeal.

6. Mr.P.Suresh Srinivasan, learned counsel appearing for the appellant/ Insurance Company would vehemently contend that the quantum of compensation is on the higher side. The learned counsel would submit that it is only the pay slip that was produced and no one was examined in support of the claim.



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7. The fact that the claimant was employed in Tata Consultancy Service was not denied. He was working as a System Engineer. Considering the period at which the accident took place viz., 2012 when the demand for computer professionals was very high, we do not think that the claim that he was earning a sum of Rs. Rs.29,061/- as a System Engineer can be doubted. The Tribunal had added 50% towards future prospects as per the judgment of the Hon'ble Supreme Court in *National Insurance Co. Ltd vs Pranay Sethi and others* reported in **2017 (2) TN MAC 271**. We are therefore unable to fault the Tribunal for arriving at the monthly income at at Rs.43,591.50/-.

8. As regards the compensation under the other heads we find that the award is very reasonable, in fact, we find that the grant of Rs.33,000/- towards attender charges is too low and it has to be for the life time. However, since the claimant is not on appeal we do not think we should interfere with the compensation awarded by the Tribunal.



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9. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M.,J.) (N.S.,J.)
03.11.2023

dsa
Index :No
Internet :Yes
Neutral Citation :No
Speaking order



To

The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

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and
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