



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3457 of 2014
and M.P.1 of 2014

National Insurance Company Ltd.,
D.No.66, Greams Road,
Chennai-6.

.. Appellant

Vs.

1. Raghu @ Raghupathy

... 1st Respondent/Claimant

2. Manu Mohanan

.. 2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 17.04.2014 made in MCOP.No.415 of 2009 on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr. V.Velu for R1
R2 – Not ready in notice

J U D G M E N T

This appellant/Insurance company has come forward with the present appeal, challenging the order of the Motor Accidents Claims Tribunal,



Court of Small Causes, Chennai in MCOP. No.415 of 2009 dated 17.04.2014 contending that the amount of compensation awarded under different heads are excessive.

2. Brief facts which are necessary for disposal of this appeal are as follows:

On 12.04.2008 at about 10.30 P.M. the first respondent/claimant was standing in the corner of the ECR Road, opposite to Semmencheri Archana Hotel, Kovalam at the time a Zen Car bearing Registration No. TN 07 AH 3147, which was owned by the second respondent and insured with the appellant, came in a rash and negligent manner and dashed against the first respondent, thereby he sustained injuries all over the body. Due to which, the claimant was taken to Hospital. Thereafter, the claimant has filed petition under Section 166 M.V. Act, claiming compensation of Rs. 6,00,000/- before the Motor Accidents Claims Tribunal, Court of Small Causes, Chennai and the same was taken on file as MCOP. No. 415 of 2009.

3. Before the Tribunal, during trial, in order to prove the case, the first respondent/claimant has examined two witnesses viz., PW1 and PW2 and



marked Exs.P1 to P13, On the side of the appellant/respondent, no witness was examined and no document was marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition and awarded a sum of Rs.5,10,250/- as compensation to the claimant under various heads, aggrieved by the said award dated 17.04.2014, the appellant/insurance company has filed this appeal before this Court for reduction of the compensation.

4. The learned counsel for the appellant/insurance company would submit that the Tribunal erred in assuming income of the 1st Respondent as Rs.6000/- per month in the absence of proof either for avocation or earnings. The learned counsel would further submit that the quantum of compensation awarded by the Tribunal is excessive and there is no basis for awarding such compensation of Rs.5,10,250/- which warrants interference.

5. The learned counsel for the first respondent/claimant would submit that the first respondent is a carpenter and he was earning Rs.7000/- per month at the time of accident. The Doctor has assessed the disability at 90% and however, the Tribunal, without considering the doctor's report, has



reduced the disability at 30%. It is also submitted that the compensation awarded by the Tribunal is a just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

6. Heard the learned counsel for the appellant/insurance company and the learned counsel for the first respondent and also perused the materials available on record.

7. The present appeal has been filed questioning the award in respect of loss of earning power and pain and sufferings. The Tribunal has assessed the disability at 30% and adopted the multiplier method and awarded a sum of Rs.3,45,000/- towards loss of earning power and the first respondent sustained injuries only his face and took a treatment for 13 days as inpatient, the Tribunal has considered the nature of the injuries and awarded compensation using multiplier method is non-est in law. Accordingly, this Court is inclined accept the disability at 80% and fixes the compensation at Rs.3000/- per percentage $(80\% \times \text{Rs.3000/-}) = \text{Rs.2,40,000/-}$. Further, the Tribunal awarded a sum of Rs.75,000/- towards pain and sufferings is exorbitant and the same is reduced to Rs.25,000/- and awarded loss of



amenities is unknown to the injuries and therefore, this Court is recalled the amount awarded at Rs.50,000/- towards loss of amenities. In respect of other heads awarded by the Tribunal is just and reasonable and the same are confirmed. The award of the Tribunal is modified as follows:

Heads	Amount awarded by Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of earning capacity	3,45,600/-	2,40,000/-
Pain and suffering	75,000/-	25,000/-
Partial loss of income	18,000/-	18,000/-
Transportation	5,000/-	5,000/-
Extra nourishment	5,000/-	5,000/-
Damage to clothing	1,000/-	1,000/-
Loss of amenities	50,000/-	Nil
Medical Bills	5,652/-	5,652/-
Attenders Charges	5,000/-	5,000/-
Total	5,10,252/-	Rs.3,04,652/- round off to Rs.3,04,650/-

The amount of compensation of Rs.5,10,252/- is reduced to



Rs.3,04,650/- as stated in the above table.

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8. In the result, the order of the Motor Accidents Claims Tribunal, Court of Small Causes, Chennai in MCOP. No.415 of 2009 dated 17.04.2014 is modified and this appeal is partly allowed.

9. The compensation amount of Rs.5,10,252/- is reduced to Rs.3,04,650/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The appellant/insurance company is directed to deposit the award amount as ordered by this Court with interest, within a period of six weeks from the date of receipt of a copy of this order and the Insurance Company shall withdraw the excess amount, if already deposited. Thereafter, recover the deposited award amount from the second respondent. On such deposit, the first respondent/claimant is permitted to withdraw the same on making proper application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes

Speaking Order : Yes

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To

The Motor Accidents Claims Tribunal,

V Court of Small Causes, Chennai.



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M.DHANDAPANI,J.

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