



C.M.A.(MD).No.946 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.946 of 2018

and

C.M.P(MD) No.10220 of 2018

M/s.United India Insurance Company Ltd.,
Divisional Office-I,
Door No.7A, Pandian Building,
West Veli Street, Madurai – 1,
Represented through its
Divisional Manager.

... Appellant/2nd Respondent

-VS-

1. V.Senthil Kumar
S/o. Late Venkatachalam

... 1st Respondent/Petitioner

2. S.Senthil Kumar
S/o.Sakthivel

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree passed in M.C.O.P.No. 1564 of 2015, dated 04.04.2018, on the file of the Motor Accident Claims Tribunal cum Special Sub Court, Tirunelveli.

For Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.Senthil Sankara Natha Kumar
For – R1
: R2- Given up



C.M.A.(MD).No.946 of 2018

WEB COPY

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal-cum-Special Sub Court, Tirunelveli made in M.C.O.P.No.1564 of 2015 primarily on the ground of quantum.

2. The injured claimant who was aged about 30 years, working as a temporary driver in State Express Transport Corporation, met with an accident on 16.09.2015 and sustained disability to an extent of 90% as per the report of the Medical Board, which is marked as Ex.P.23.

3. The Tribunal has taken into consideration the disability at 75% and applying the multiplier method, arrived at a sum of Rs.13,42,800/- (Rupees Thirteen Lakhs Forty Two Thousand and Eight Hundred only) under the head of loss of income. A sum of Rs.2,00,000/- (Rupees Two Lakhs only) was awarded towards loss of pain and sufferings. A sum of Rs.2,00,000/- (Rupees Two Lakhs only) was awarded towards loss of amenities, a sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) was awarded towards attendar charges, a sum of Rs.15,000/- (Rupees Fifteen Thousand only) was awarded



C.M.A.(MD).No.946 of 2018

towards transportation charges, a sum of Rs.2,00,000/- (Rupees Two Lakhs only) was awarded towards loss of future medical expenses, a sum of Rs. 2,64,788/- (Rupees Two Lakhs Sixty Four Thousand Seven Hundred and Eighty Eight only) as per Ex.P3 Medical bills, a sum of Rs.35,020/- (Rupees Thirty Five Thousand and Twenty only) as per Ex.P-4 – Medical Bills, a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards extra nourishment, a sum of Rs.5,82,600/- (Rupees Five Lakhs Eighty Two Thousand and Six hundred only) for purchasing artificial limb. A sum of Rs.1,00,000/- (Rupees One Lakh only) towards loss of marital prospects. Totally, a sum of Rs.30,15,208/- (Rupees Thirty Lakhs Fifteen Thousand Tow Hundred and Eight only) was awarded by the Tribunal. The Insurance Company has admitted the liability to an extent of Rs.20,16,000/- and has filed the present appeal, challenging the award to an extent of Rs.10,00,000/- (Rupees Ten Lakhs only).

4. According to the learned counsel appearing for the appellant, the Tribunal had excessively awarded a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards pain and sufferings and a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards loss of amenities. He has further contended that without



C.M.A.(MD).No.946 of 2018

any medical records, a sum of Rs.2,00,000/- has been awarded under the head of future medical expenses. He further contended that based upon Ex.P.5, which is a quotation, a sum of Rs.5,82,600/- has been awarded for purchasing artificial limb. The appellant has also contended that a sum of Rs.1,00,000/- (Rupees One Lakh only) towards loss of marital prospects is excessive. Hence, he prayed for allowing the appeal and reducing the quantum of compensation under these heads.

5. Per contra, the learned counsel appearing for the claimant/first respondent had contended that the Tribunal had relied upon Ex.P.5 and thereafter, has proceeded to award a sum of Rs.5,82,600/- towards purchasing artificial limb. He further contended that since he has sustained grievous injuries, he requires future medical expenses also. He further contended that the injured claimant was aged about 30 years and he has lost his avocation as a driver and therefore, the marital prospects have been affected. Hence, the award of Rs.1,00,000/- towards loss of marital prospectus is legally sustainable. Hence, he prayed for confirming the award passed by the Tribunal.



C.M.A.(MD).No.946 of 2018

WEB COPY

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

7. It is an admitted fact that the injured claimant was a temporary driver in State Express Transport Corporation and he was aged about 30 years on the date of accident. It is also an admitted fact that his right leg has been amputated above knee and therefore, it is the clear case of functional disability. In this angle, we have to consider the award of compensation by the Tribunal.

8. The Tribunal has rightly applied the multiplier method and has awarded a sum of Rs.13,42,800/-(Thirteen Lakhs Forty Two Thousand and Eight Hundred only). Considering the fact that the right leg above knee has been amputated, the Tribunal awarded a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards pain and sufferings, which cannot be considered on the excessive side and Rs.2,00,000/-(Rupees Two Lakhs only) awarded for loss of amenities, cannot be considered on the excessive side. However, there are no medical records to show that the claimant has to undergo the medical treatment in future. The Tribunal has awarded a sum of Rs.2,00,000/- for



C.M.A.(MD).No.946 of 2018

future medical expenses without any records whatsoever. Therefore, the said award under the head of future medical expenses, is liable to be set aside. The Tribunal has further awarded a sum of Rs.5,82,600/- based upon the Ex.P-5 Medical Bills. A perusal of Ex.P.5 indicates that it is only quotation received from a private company for the value of the artificial limb. This Court is not inclined to accept the said documents. This Court proceeds to award a sum of Rs.1,00,000/- under the head for fixing artificial limbs. Further, a sum of Rs.1,00,000/- has been awarded towards loss of marital prospects. Considering the facts and circumstances, this Court is inclined to reduce a sum of Rs.6,83,392/- (Rupees Six Lakhs Eighty Three Thousand Three Hundreds and Ninety Two only).

9. In view of the above said deliberations, the award of the Tribunal is modified as follows:

Loss of Income	: Rs.13,42,800/-
Pain and Sufferings	: Rs. 2,00,000/-
Loss of Amenities	: Rs. 2,00,000/-
Attendar Charges	: Rs. 25,000/-
Transport Expenses	: Rs. 15,000/-
As per Ex.P.3	: Rs. 2,64,788/-
As per E.P-4	: Rs. 35,020/-



C.M.A.(MD).No.946 of 2018

Extra Nourishment	: Rs. 50,000/-
Artificial Limbs	: Rs. 1,00,000/-
loss of Marital Prospects:	<u>Rs. 1,00,000/-</u>
Total	: <u>Rs.23,32,608/-</u>

10. In view of the above said deliberations and the above said discussions, the award of the Tribunal is reduced from Rs.30,16,000/- to Rs.23,32,608/- (Rupees Twenty Three Lakhs Thirty Two Thousand Six Hundred and Eight only) and the said award amount will carry interest at the rate of 7.5% per annum from the date of claim petition. If any excessive amount has been deposited by the appellant Insurance Company, the same shall be refunded along with accrued interest.

11. Accordingly, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.06.2023

NCC : Yes/No
Index : Yes / No



C.M.A.(MD).No.946 of 2018

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To

1. The Motor Accident Claims Tribunal cum Special Sub Court,
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).No.946 of 2018

R.VIJAYAKUMAR,J.

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C.M.A.(MD)No.946 of 2018



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C.M.A.(MD).No.946 of 2018

22.06.2023