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CMA.No.608 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.608 of 2024

and

C.M.P.No.5936 of 2024

The Manager,
Reliance General Insurance Company Ltd.
Motor Third Party Claims, No.66,
Haddows Road, Nungambakkam,
Chennai – 6.

... Appellant

Vs.

1.J.Srinivasan

2.S.Thiruchelvam

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 26th April 2023 passed in MCOP.No.3234 of 2020 by the Motor Accident Claims Tribunal, II Court of Small Causes at Chennai.

For Appellant : Mr.J.Srinivasan

For Respondents : Mr.L.Mohan Rao



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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.37,32,200/- as compensation for the injuries suffered by the claimant in a motor accident that occurred on 01.11.2020.

2. The claimant sought for a compensation of Rs.40,00,000/- for the injuries suffered by him in the accident contending that the accident occurred due to the rash and negligent driving of the container lorry bearing Reg.No.TN-04-AE-4722, in as much as the lorry came from behind dashed against the motorcycle bearing Reg.No.TN-02-BR-4072, in which the claimant was traveling as a pillion rider. The quantum sought was justified by contending that as a result of the injury the right leg of the claimant was amputated above the knee resulting in 100% loss of earning power. The claimant was working as a AC mechanic.

3. The Insurance Company resisted the claim contending that the accident did not occur due to the negligence of the lorry driver and the rider



of the motorcycle had contributed to the accident by his own rash and negligent driving. It was also contended that the quantum of compensation claimed was extremely high and the claimant was put to strict proof of his avocation, earning and the extent of disability.

4. The Tribunal on a consideration of the evidence on record, particularly the First Information Report which was marked as Ex.P2 and the charge sheet which marked as Ex.P4 concluded that the accident occurred due to the rash and negligent driving of the driver of the lorry, which was insured with the appellant/ Insurance Company. On the quantum though there was no direct evidence of income, the Tribunal took the notional income at Rs.15,000/- per month and added 40% towards future prospects. Thus, the monthly income was fixed at Rs.21,000/-. The Tribunal concluded that the disability caused was 80% based on the disability certificate Ex.C1. The Tribunal adopted the multiplier of '17' and concluded that the total monetary loss would be Rs.34,27,200/-. The Tribunal granted compensation under the other heads as follows:-

Heads	Amount
Towards pain and sufferings	Rs.1,00,000/-



Towards loss of earning during Treatment	Rs.45,000/-
Towards Medical Expenses	Rs.-----
Towards Loss of Amenities	Rs.1,00,000/-
Towards Attender Charges	Rs.20,000/-
Towards Transportation Charges	Rs.20,000/-
Towards Extra Nourishment	Rs.20,000/-

Thus, the total compensation was arrived at Rs.37,32,200/-.

Aggrieved the Insurance Company is on appeal.

5. Mrs.C.Bhuvanasundari, learned counsel appearing for the appellant would vehemently contend that the quantum of compensation awarded is on the higher side in the absence of any evidence of avocation of the claimant. She would also contend that the amount awarded under the other heads is also on the higher side.

6. We have considered the submissions of the learned counsel. We have also examined the award with reference to relevant materials placed before us. The fixation of Rs.15,000/- as monthly income for an accident



that occurred on 01.11.2020 cannot be said to be on the higher side. Even the minimum wages payable as on that date were hovering around Rs.600/- to Rs.700/- per day. We are unable to fault the Tribunal for taking the income at Rs.15,000/- per month. The percentage of disability is also not in serious dispute. Since the claimant has lost one leg above the knee the nature of disability and the disability fixed by the Medical Board will have to be accepted. We are therefore unable to fault the Tribunal for having arrived at a compensation of Rs.37,27,200/- on the ground of loss of income due to disability. Compensation awarded on the other heads are also not very high to call for interference from our hands.

7. Hence, we do not find any merit in this appeal. The appeal therefore fails and it is accordingly **dismissed**. The direction for pay and recovery granted by the Tribunal is sustained. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
15.03.2024

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Internet : Yes

Neutral Citation : No

Speaking order

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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

dsa

To

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

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