



C.M.A.No.1430 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1430 of 2015

and

M.P No.1 of 2015

M/s. National Insurance Co. Ltd.,
No.751, III Floor, Anna Salai
Chennai-2.

... Appellant

..Vs..

1.M.Mummoorthy (deceased)
2.D.Dinakaran
3.Bhuvaneshwari
4.Gayathridevi
5.Raj Tilak
6.Sivaraj
(Respondents 3 to 6 were brought on
record the legal heirs of the deceased
1st respondent as per the order of
this Court dated 13.09.2021 made in
CMP No.13010 of 2021)

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 27.01.2015 made in MCOP No.1660 of 2013, on the file of the Motor Accident Claims Tribunal IV Court of Small Causes, Chennai.

For Appellant

: Mr.S.Arun Kumar

For Respondents

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J U D G M E N T

WEB COPY This appeal has been filed by the Insurance Company challenging the impugned award questioning the quantum of compensation awarded by the Tribunal. Primarily, they have questioned the disability compensation awarded to M.Mummoorthy, the claimant. M.Mummoorthy after filing this appeal, has died and his legal representatives have also been brought on record.

2. The respondents have been duly served with the notice in the appeal and their names have also been printed in the cause list today.

3. M.Mummoorthy, as a result of an accident caused by the vehicle insured with the appellant, had sustained the following injuries:

“segmental fracture in the right leg both bones”.

4. The doctor/PW3 had assessed the disability of Mummoorthy at 45%. It is also an admitted fact that Mummoorthy was admitted in the hospital as a result of the injuries sustained by him due to the accident, on



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12.03.2013 and was discharged from the hospital only on 21.05.2013. He had spent more than two months in the hospital. He had also undergone surgery in his right leg on account of the fracture sustained by him and plate, screws were also fixed. The claimant (Mummoorthy) has also deposed that he was suffering from hip pain. Based on the evidence available on record, the Tribunal has awarded a disability compensation of Rs.1,35,000/- to Mummoorthy (claimant) calculated at Rs.3000/- per percentage of the disability for the 45% disability. The accident happened in the year 2013. Though the learned counsel for the appellant would contend that since the deceased was aged 80 years, the disability compensation fixed by the Tribunal at Rs.1,35,000/- is high, the said contention has to be rejected considering the nature of the injuries sustained by the claimant. Further, no contra evidence has also been produced by the appellant to disprove the assessment made by the Tribunal with regard to the disability compensation.

5. Insofar as other heads of compensation awarded by the Tribunal is concerned, this Court is of the considered view that the compensation awarded cannot be considered as excessive, considering the fact that the



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claimant had sustained grievous injuries and was in the hospital for more than two months. However, the Tribunal has erroneously awarded compensation towards loss of earning twice at Rs.19,500/- each. Hence, this Court is deducting a sum of Rs.19,500/- from and out of total compensation of Rs.6,73,900/- awarded by the Tribunal under the impugned award. This Court does not find any infirmity in the findings of the Tribunal excepting for deduction of Rs.19,500/- from and out of the total compensation amount of Rs.6,73,900/- on the ground that the Tribunal has erroneously awarded compensation twice towards loss of earning. Since the 1st respondent/claimant has died after filing this appeal, his legal representatives namely, the respondents 3 to 6 are entitled for the compensation awarded by the Tribunal and the total amount of compensation shall be shared by the respondents 3 to 6 herein equally.

6. In the result, the compensation awarded by the Tribunal at Rs.6,73,900/- is reduced to Rs.6,54,400/-.. The Appellant Insurance Company is directed to deposit the modified Award amount together with interest at 7.5% per annum from the date of claim till the date of deposit and



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costs as assessed by the Tribunal after deducting the amount already deposited, if any, to the credit of MCOP.No.1660 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by this Court along with accrued interest to the bank account of the respondents 3 to 6, who are the legal heirs of the deceased Mummoorthy (1st respondent/claimant) through RTGS within a period of two weeks thereafter.

7. Accordingly, this Civil Miscellaneous Appeal is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

08.04.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To

- 1.The Motor Accident Claims Tribunal/
The IV Judge, Small Causes Court,
Chennai.
- 2.The Section Officer
V.R.Section, High Court of Madras.



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ABDUL QUDDHOSE, J.

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