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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1753 of 2024
and CMP No.13866 of 2024

Reliance General Insurance Company Ltd.,
Having Branch Office at
2nd Floor, Shri Abirami Towers,
43-Dm Cowly Brown Road,
R.S.Puram, Coimbatore – 641 002.

... Appellant

.vs.

1.A.Chinnasamy

2.N.Sakthivel

3.P.Arumugam

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 27.09.2023 passed in MCOP No.207 of 2022 on the file of MACT Special Subordinate Judge, Erode.

For Appellant : Mr.P.Suresh Srinivasan

JUDGMENT

The Insurance Company has filed the present appeal against the award passed by the Tribunal in MCOP No.207 of 2022, dated 27.09.2023.



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2.The 1st respondent/claimant filed a claim petition on the ground that on 01.01.2022, he was riding a two wheeler at Erode-Sathy main road and at about 9.15 a.m. and the vehicle came near the petrol bunk, the offending vehicle coming from the opposite direction was driven in a rash and negligent manner and it dashed on the two wheeler. The claimant was thrown out of the vehicle and he sustained multiple bone fracture and grievous injuries at RTA right shoulder injury, comminuted fracture of the right scapula with haematoma, right subclavian artery injury, right brachial plexus injury, fracture C5 and D5 spinous processes. As a result, the claimant underwent treatment as an inpatient for nearly 58 days. The nature of injuries that were sustained by the claimant was also explained in Exs.P9, P12 and P13 which are the Discharge Summaries. As a result of this injury, the right hand below the elbow was reduced in size and there was only a bone upon which a skin is left without any muscle. The arm can only be kept intact with the help of a sling. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the



accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.19,29,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Earnings	Nil
2.	Transport to Hospital	10,000
3.	Extra Nourishment	15,000
4.	Attender Charges	15,000
5.	Future Medical Expenses	Nil
6.	Damages for Clothes and Articles	5,000
7.	Medical Expenses	3,09,000
8.	Pain and Sufferings	1,00,000
9.	Permanent Disability & Loss of Earning Power	14,75,000
	Total	19,29,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.



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6.Heard Mr.P.Suresh Srinivasan, learned counsel appearing on behalf of the appellant Insurance Company.

7.This Court has carefully considered the submissions made by the counsel for appellant and also the materials available on record.

8.The nature of injuries sustained by the claimant has been extracted *supra*. The consequence of such injury has also been explained *supra*. The Medical Board assessed the permanent disability at 70%. The Tribunal considered the fact that the claimant was eking his livelihood as a tailor and as a result of the injury, he faced functional disability. Hence, the Tribunal adopted the multiplier method by considering the loss of earning capacity at 70%. The compensation fixed by the Tribunal under the head of permanent disability is supported by reasons and there is no ground to interfere with the same. The compensation that has been fixed under the other heads also are very reasonable and it does not require the interference of this Court.

9.In the light of the above, the award passed by the Tribunal is confirmed



and accordingly, this civil miscellaneous appeal stands dismissed. There shall be a direction to the appellant Insurance Company to deposit the entire compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgement. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No Costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The MACT Special Subordinate Judge, Erode.



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N. ANAND VENKATESH., J

SSR

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