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C.M.A.No.134 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.134 of 2024
&CMP.No.1261 of 2024

The Divisional Manager,
Reliance General Insurance Co., Ltd.,
Vivyn Plaza, No.89, 1st Floor,
100 Feet Road, Mudaliarpeth,
Puducherry.

...Appellant

Vs

1.Palanivel
2.Pachiayappan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 30.11.2021 passed in MACTOP.No.1109 of 2019 on the file of MACT Special Officer cum Additional Sub Judge, Puducherry.

For Appellant : Mr.P.Suresh Srinivasan
for Mr.K.Moorthy



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JUDGMENT

This civil miscellaneous appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal.

2. The learned counsel for the appellant would submit that on 25.07.2017, when the petitioner was proceeding on his motor bike bearing Registration No.PY-01-BE-4117 at Panithittu Mani Road, Etchankadu, Puducherry, a cab van bearing Registration No.PY-01-E-4804 came in a rash and negligent manner and dashed against the claimant, due to which the claimant had sustained grievous injuries. Considering all the aspects, the Tribunal had awarded compensation to the claimant in the following manner:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>
1	Permanent Disability	2,85,000
2	Pain and Sufferings	1,50,000
3	Loss of Income	2,16,000
4	Transport	10,000
5	Nutritious Food	20,000
6	Medical Expenses	79,205



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S.No.	Heads	Compensation awarded by Tribunal (Rs.)
7	Attender Charges	20,000
8	Comfort and Amenities	25,000
	Total	8,05,205

3. By referring the above compensation awarded by the Tribunal, the learned counsel for the appellant would submit that since the medical board had assessed the disability of the injured at 57%, the Tribunal had awarded the compensation under the head “loss of permanent disability” for a sum of Rs.5,000/- per percentage. On the other hand, the compensation under the head “loss of income” was awarded by the Tribunal for 24 months, for which the notional income was taken as a sum of Rs.9,000/- per month. Hence, he would contend that the amount awarded under the aforesaid heads are higher side and requests this Court to re-determine the same.

3. Heard the learned counsel for the appellant and also perused the materials available on record.

4. In the present case, on perusal of Ex.C1/disability certificate issued by



the medical board, it appears that the disability was assessed by the Medical Board at 57% and the Tribunal had awarded a sum of Rs.5,000/- per percentage.

Further, for loss of income the Tribunal had fixed the notional income of a sum of Rs.9,000/- per month for 24 months instead of applying the multiplier method. In such view of the matter, the compensation awarded by the Tribunal is in favour of the insurance company and it is an unfortunate that the claimant had not preferred any appeal against the said award, since it appears to be against the interest of the claimant. Therefore, since the award is not against the interest of the appellant and there is no force in the submission made by the learned counsel for the appellant, this Court is inclined to dismiss this appeal and confirm the compensation awarded by the Tribunal.

5. At this juncture, the learned counsel for the appellant would submit that he had paid 2 Court fees i.e., both under the Tamil Nadu Court Fee Act and Puducherry Court Fee Act. Hence, he requests for a direction to refund the Court fee, which was paid under the Tamil Nadu Court Fee Act.

6. In view of the above submission, the Registry is directed to consider



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this appeal as an appeal from Puducherry and return the eligible Court fee, which was paid by the appellant under the Tamil Nadu Court Fee Act.

7. In the result, this civil miscellaneous appeal is dismissed. Accordingly, the appellant is directed to deposit the entire award amount along with interest at the rate of 7.5% and costs, less the amount already deposited, if any, within a period of 4 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1109 of 2019 on the file of the Motor Accident Claims Tribunal, Special Officer cum Additional Sub Judge, Puducherry. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank account of the injured by way of RTGS, in the same proportions determined by the Court below, within a period of 3 weeks from the deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs. Consequently, the connected miscellaneous petition is also closed.

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Index: Yes/No
Internet: Yes/No

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Speaking order/Non-speaking order
nsa

Note: Issue order copy on 19.01.2024.



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KRISHNAN RAMASAMY,J.

nsa

To:

The Motor Accident Claims Tribunal,
Special Officer cum Additional Sub Judge,
Puducherry.

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