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CMA.No.1669 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.1669 of 2022

Dhanasekaran

Appellant

Vs

1. S.Selvaraj

2. United India Insurance Company Limited
Dharmapuri

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 26.04.2016, made in MCOP.No.2554 of 2014, by the Special District Judge (MACT) Dharmapuri.

For Appellants : Mr.D.Ramesh Kumar

For Respondents : Mr.R.Rajesh-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, challenging the quantum of compensation, awarded by the judgement and decree, dated, 26.04.2016, made in MCOP.No.2554 of 2014, by the Special District Judge (MACT) Dharmapuri.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.50,00,000/- on various heads, for the injuries sustained by him, in a motor road accident, which took place on 07.08.2013. The 1st Respondent herein/owner of the offending vehicle remained exparte. The



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claim petition was resisted, on various grounds, by the 2nd Respondent/ Insurance Company, by filing a counter. On the side of the claimant, PW.1 to PW.5 were examined and Ex.P1 to Ex.P27 were marked. On the side of the 2nd Respondent Insurance Company, DW.1 was examined and no document was marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the 1st Respondent and insured with the 2nd Respondent, the Tribunal has awarded a total compensation of Rs.8,07,600/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be paid by the 2nd Respondent Insurance Company, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Future Earnings Due To The Disability (6500x40/100x12x18)	561600
2	Pain and Suffering	50000
3	Transportation Expenses	6000
4	Attendants Charges	10000
5	Loss of Amenities	100000
6	Extra Nourishment	10000
7	Medical Expenses	70000
Total Compensation		807600

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel for the Appellant and the 2nd Respondent Insurance Company, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with



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respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellant, at the time of the accident, the injured was studying III Year M.Sc (Computer Science) and aged about 23 years old and the accident had occurred in the year 2013 and hence, the monthly notional income arrived at Rs.6500/- by the Tribunal appears to be on the lower side and further, no compensation towards future prospects is added and hence, it is to be redetermined and accordingly, the compensation awarded under the head of loss of future earnings due to the disability is to be enhanced and the compensation awarded under other heads are just and proper. As far as Respondent Insurance Company is concerned, the learned counsel submits that the compensation as awarded by the Tribunal may be confirmed.
7. In so far as the compensation under the head of loss of future earnings due to the disability suffered by the claimant is concerned, considering the educational qualification of the injured and the fact that the accident had occurred in the year 2013, after finishing the Master Degree, the injured would have earned a monthly income not less than Rs.9,000/- and hence, it would be appropriate to fix the monthly notional income of the injured at Rs.9,000/-. Since the deceased was aged 23 years old at the time of the accident, the proper multiplier would be 18.
8. As per the medical records, the Tribunal found that the injured claimant lost his left eye sight. The Doctor, who examined the injured, has assessed the



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disability at 55%. However, based on the medical evidence, the Tribunal fixed the functional disability in respect of the whole body at 40%, which is not disputed by the learned counsel on either side. However, while arriving at the compensation, the Tribunal failed to add compensation towards future prospects, which is not appropriate. Hence, after adding 40% towards future prospects and taking 40% functional disability and applying the proper multiplier of 18, the compensation under the loss of future earnings due to the disability suffered by the claimant is redetermined at Rs.10,88,640/- $(9000+3600) \times 40/100 \times 12 \times 18$.

9. The compensation amounts awarded under the other heads are just and reasonable and hence, the same shall stand unaltered. In all, the total compensation is redetermined at Rs.13,34,640/-, which shall carry interest 7.5% p.a. from the date of the claim petition till the date of realisation.
10. In fine, this Civil Miscellaneous Appeal is partly allowed. In all, claimant is entitled to a total compensation of Rs.13,34,640/-, (Rupees thirteen lakhs thirty four thousand six hundred and forty only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-



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S.No	Category	Award Amount (Rs.)
1	Loss of Future Earnings Due To The Disability (9000+3600)x40/100x12x18)	1088640
2	Pain and Suffering	50000
3	Transportation Expenses	6000
4	Attendants Charges	10000
5	Loss of Amenities	100000
6	Extra Nourishment	10000
7	Medical Expenses	70000
Total Compensation		1334640

The claimant shall pay proper court fee for the enhanced compensation amount. The 2nd Respondent / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer, by way of RTGS, the entire compensation amount with interest directly to the bank account of the claimant, within a period of three weeks thereafter. No costs.

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The the Special District Judge (MACT) Dharmapuri
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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