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Civil Miscellaneous Appeal No.276 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Civil Miscellaneous Appeal No.276 of 2024
and C.M.P.No.3024 of 2024**

Reliance General Insurance Company Ltd.,
The Divisional Manager,
Adams Road, Nungambakkam,
Chennai – 600 034.

... Appellant

Vs.

1. Praveenkumar
2. Nithyanandhan

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 07.12.2021 passed in M.C.O.P.No.227 of 2019 on the file of MACT(Special Subordinate Judge), Tirupattur.

For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Ms.E.Ramyashree



JUDGMENT

WEB COPY (Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This appeal has been directed against the order passed by the Motor Accident Claims Tribunal, Tirupattur, dated 07.12.2021 made in M.C.O.P.No.227 of 2019.

2. Due to the accident taken place on 04.06.2019, the first respondent herein, who was the petitioner/claimant, had met with an accident as the two wheeler driven by the claimant was hit by a TATA ACE bearing registration No.TN 23 BX 9468, which has been insured with the appellant herein.

3. Due to the said accident there has been a disability, which was quantified as 60% as per certification issued by the Doctor and based on which, the 60% disability has been taken into account by the Tribunal.

4. Insofar as the earning capacity of the claimant even though no document has been filed by the petitioner/claimant, the Tribunal has come to a conclusion that his earning capacity can be fixed at Rs.9,000/- per month.



5. Based on these factors, the Tribunal has awarded a total sum of

Rs.22,08,943/-, as against which, the present appeal has been directed.

6. Mr.P.Suresh Srinivasan, learned counsel appearing for the appellant/Insurance Company has submitted that, insofar as the accident taken place and the liability for the Insurance Company to pay compensation, etc., is concerned, which are not disputed, but the quantum that has been fixed so far as it relates to loss earning due to functional disability based on the Doctor Certificate at 60% and the fixation of monthly income at Rs.9,000/- to the claimant is on the higher side, for which according to him there has been no document filed or adduced by the claimant before the Tribunal.

7. We have heard Ms.E.Ramya Shree, learned counsel who appeared for the respondent.

8. Since the quantum alone has been questioned whether the quantum fixed by the Tribunal is justifiable or not is the only question to be decided by this Court.



9. The learned Judge has put up the following calculation for arriving at the total quantum to be awarded as compensation under various heads:

“4. The petitioner's age is fixed as 36 years. The multiplier stated by Hon'ble Supreme Court is adopted as per the judgment in 2009(2) TNMAC 1 (SC) Smt.Sarala Varma and Other/ versus/ Delhi Transport Corporation and another. Considering the age of the petitioner as 36 years, the multiplier is fixed as 15.

The Loss of functional Disability is calculated as follows:

<i>Age</i>	<i>36 years</i>
<i>Multiplier</i>	<i>15</i>
<i>Monthly income including future prospects</i>	<i>Rs.12,600/-</i>
<i>Annual income including future prospects</i>	<i>Rs.1,51,200/-</i>
<i>Percentage of Disability</i>	<i>60%</i>
<i>Loss of functional Disability</i>	<i>Rs.1,51,200 X 15 X 60/100</i>
<i>Total = Rs.13,60,800/-</i>	

(5) Considering the nature of grievous injuries, Rs.60,000/- is awarded towards pain and sufferings. Towards extra nourishment, Rs.7,000/- is awarded. The petitioner had been taken to various Hospitals and admitted as inpatient. Hence, towards attender charges



Rs.3,000/- is awarded.

(6) The petitioner claimed that he had incurred medical expenses. The petitioner had marked Ex.P16 for Rs.1,39,912/-, Ex.P17 for Rs.2,97,301/- Ex.P.18 for Rs.4,950/-, Ex.P19. Out patient medical treatment for Rs.2,73,582/-, Ex.P20 Wound clearing charge for Rs.12,398/-. The total medical bills comes to Rs.7,28,143/- . The medical bills are supported by the Discharge Summaries marked as Ex.P3 and Ex.P4. The medical bills are originals and genuine. Hence, the entire sum of Rs.7,28,143/- is awarded towards medical expenses. The petitioner had produced trip sheets as Ex.P15 for Rs.1,38,220/-. The same is on very higher side. Considering the nature of injuries and possibility of transport, a sum of Rs.30,000/- is awarded. Considering the nature of injuries sustained by the petitioner the petitioner will have to forgo certain amenities at present and in future. Hence a sum of Rs.20,000/- is awarded towards loss of amenities.

(7) In fine, the amount awarded under different heads are totaled below:

- | | |
|--|----------------|
| 1. Towards Loss due to Functional Disability | Rs.13,60,800/- |
| 2. Pain and Sufferings | Rs. 60,000/- |
| 3. Extra nourishment | Rs. 7,000/- |
| 4. Transportation Charges | Rs. 30,000/- |



5. Attender charges	Rs. 3,000/-
6. Loss of Amenities	Rs. 20,000/-
7. Medical Expenses	Rs.7,28,143/-
Total	Rs.22,08,943/-

This point is answered Accordingly.”

10. The claimant age was 36 years, therefore the multiplier was 15 and the monthly income including future prospects was fixed at Rs.12,600/- and the annual income including future prospects is fixed at Rs.1,51,200/- and the percentage of the disability as per the Doctor certificate was taken as 60%, therefore, the loss of functional disability has been calculated and arrived at Rs.13,60,800/-.

11. The said conclusion arrived at by the Tribunal in our considered view does not warrant any interference for the reason that the 60% disability has been taken by the Tribunal based on the certification of the Doctor, which has been filed as Ex.P21. So far as the age of the claimant is concerned, there has been no dispute and the multiplier also is 15.

12. With regard to the monthly income including future prospects as has been fixed at Rs.12,600/- is concerned, which is even according to



the minimum wages that kind of income can very well be fixed on any working person that too a male person, therefore the fixation of the monthly income even without any document of the Tribunal cannot be found fault with, therefore, the ultimate conclusion arrived at by the Tribunal to fix the loss of functional disability to the extent of Rs.13,60,800/- is fully justified.

13. In view of the same, we do not find any error in the reasoning given by the Tribunal as well as the conclusion arrived at for awarding the said compensation payable by the Insurance Company to the claimant i.e., the first respondent herein. Therefore, this appeal deserves to be dismissed and accordingly, it is dismissed. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

09.02.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
mp

To
1. The Motor Accident Claims Tribunal, (Special Subordinate Judge),



Tirupattur.

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and
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