IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 23.01.2024	Pronounced on 06.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2052 of 2021
and
C.M.P.No.11059 of 2021

M/s. United India Insurance Co.Ltd
Third Party HUB,
Silingi Building, No.134,
Greams Road, Chennai - 600 006. ...Appellant

Vs.

1. S.Sathishkumar

2. K.Thirumal ...Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 19.10.2019 made in M.C.O.P.No.274 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar
For R1 : Mr.K.Varadha Kamaraj.
For R2 : Mr.Sam Jayaraj Houston,
for M/s.Sarvabhauman Associates.

Cros.Obj.No.32 of 2022

S.Sathishkumar ...Cross Objector

Vs.

1. K.Thirumal

2. M/s. United India Insurance Co. Ltd.,
Third Party HUB, Silingi Building,
No.134, Greams Road,
Chennai - 600 006. ...Respondents

Prayer: Petition filed under Order XLI Rule 22 of CPC against the decree and judgment dated 19.10.2019 made in M.C.O.P.No.274 of 2016 on the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub Court No.2), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For R1 : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates.

For R2 : Mr.S.Arunkumar.

J U D G M E N T

The appeal is filed by the appellant/Insurance Company, challenging the award on the ground of quantum.

2. The factum and manner of the accident are not in dispute. The offending vehicle is owned by the second respondent and insured with the appellant herein and the same is also not in dispute. Hence, the findings of the Tribunal with regard to liability is confirmed.

3. The claimant/1st respondent has filed Cross Objection No.32 of 2022 seeking enhancement of compensation. On the side of the first respondent, he examined himself as P.W.1 & marked 11 documents as Exs.P1, P2, P3, P9, P12, P19, P24 to P28. On the side of the appellant, no oral and documentary evidence was let in. Disability Certificate of the claimant/first respondent was marked as Ex.P37. As per Ex.P37, the injuries are three years old fracture shaft of femur, neck of femur and both bones leg and the physical disability was assessed at 50%. On the date of the accident, the 1st respondent was aged about 40 years. As per Ex.P18 - Aadhar Card, the date of birth of the 1st respondent is 15.05.1974. The date of the accident is 24.01.2015. On the date of the accident, the claimant was aged 40 years. Identity Card issued by the employee, Salary Slip, Summary of the Salary Certificate and Salary Slip for the years 2007 to

2014 were marked as Exs.P14 to P16 & Ex.P27. The salary statement of the injured was marked as Ex.P31 and GST registration of the Company, in which the injured was working was marked as Ex.P34. P.W.4 in the cross examination, had admitted that as per Ex.P28 Bank Statement, the injured had received a salary of Rs.20,020/- per month with deduction and further stated that after deduction of P.F., the claimant / 1st respondent received salary of Rs.17,000/- per month. The Tribunal granted 40% enhancement towards future prospects as per the Constitution Bench's judgment of the Honourable Apex Court in ***National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC),*** applied multiplier 12 and deducted 10% towards income tax. Thus, the Tribunal awarded a sum of Rs.29,28,300/- as compensation to the first respondent.

4. At this juncture, the cross objector/claimant would contend that in this case, the learned Single Judge of this Court in C.R.P.(MD).No.1982 of 2018 etc. batch has held that since the matter is pending before the Hon'ble Supreme Court, the deduction of the income tax in respect of the award of compensation paid to the injured or the legal representatives of the deceased, the said 10% of

the amount are directed to be kept in a separate Bank account till the disposal of the case before the Hon'ble Supreme Court.

5. Accordingly, the compensation awarded by the Tribunal is hereby confirmed in respect of disability at Rs.21,15,300/-, pain and suffering at Rs.25,000/-, Transport Charges at Rs.15,000/-, Extra Nourishment at Rs.10,000/-, Attender Charges at Rs.15,000/-, Medical Bill as per Ex.P12 & P13 at Rs.7,23,000/- and Future Medical Expenses at Rs.25,000/-.

6. The Tribunal is directed to maintain in a separate account. Therefore, the Insurance Company is hereby directed to deposit a sum of Rs.29,28,300/- in a separate cheque and to deposit 10% as a TDS in the Execution Court and 10% of the said amount deposited towards TDS shall be kept in the credit of the M.C.O.P.No.274 of 2016 till the disposal of the case pending before the Hon'ble Supreme Court in this case.

7. With this modification, the cross objection filed by the claimant/first respondent is partly allowed to the extend indicated as above.

Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

06.03.2024

kmm

Index : Yes/No
Internet : Yes/No
Neutral Citation:Yes/No
Speaking Order: Yes/No

To

1. The Motor Accident Claims Tribunal,
   Small Causes Court, Special Sub Court No.2,
   Chennai.

2. The Section Officer,
   V.R.Section, High Court of Madras,Chennai.

RMT.TEEKAA RAMAN.J,

kmm

Judgment made in
C.M.A.No.2052 of 2021
and
Cross.Obj.No.32 of 2022

Dated: 06.03.2024