



Civil Miscellaneous Appeal No.2922 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 5/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

C.M.A.No.2922 of 2024

a n d

C.M.P.No.24379 of 2024

ICICI Lombard General Insurance Co. Ltd
SIGMA Towers, I Floor,
29 – 35 Narayanasamy Layout
P.N.Palayam
Coimbatore District 641 037.

...

Petitioner

Vs

1. A. Rangasamy

2. K. Satheesh Kumar

3. S. Kasilingam

...

Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18/12/2019 in MCOP No.771 of 2017 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge), Coimbatore.

For petitioner

...

Mrs.R.Sreevidhya

For respondents

...

Mr.S.P.Yuvaraj
for R.1



J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company against the judgment and decree dated 18/12/2019 in MCOP No.771 of 2017 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge), Coimbatore.

2. The averments made in the affidavit filed in support of the Civil Miscellaneous Appeal are as follows:-

On 2/11/2016 at about 5.45 a.m., when the first respondent was crossing the road from east to west, on Kovai, Puliyakularm near R.R.bakery, a two wheeler bearing Registration No.TN-37-BH-3889 driven by the second respondent, came from north to south, in a rash and negligent manner, dashed against the first respondent, thereby, the first respondent had sustained right hip injury and multiple grievous injuries all over his body. He was admitted as in-patient in Richmond Hospital, Coimbatore. Hence, filed M.C.O.P.No.771 of 2017 before the Motor Accident Claims Tribunal (Special Subordinate Judge), Coimbatore.



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3. Before the Tribunal, the claimant has examined himself as P.W.1 and marked Exs.P-1 to P-8. There is no oral or documentary evidence on the side of the Insurance Company. On the basis of the oral and documentary evidence, the Tribunal held that the claimant is entitled for compensation of Rs.8,00,509/- along with interest at the rate of 7.5% p.a., from the date of petition till the date of its realization along with proportionate costs. Being aggrieved, the Insurance Company has filed the instant Civil Miscellaneous Appeal.

4. Heard Mrs.R.Sree Vidhya, learned counsel for the petitioner and Mr.S.P.Yuvaraj, learned counsel for the first respondent.

5. Learned counsel appearing for the appellant Insurance Company submitted that when the alleged injuries were not assessed in accordance with Schedule – I of Workmen Compensation Act, multiplier method cannot be accepted. Moreover, the claimant had not established that he had suffered a permanent disability. Learned counsel appearing for the appellant Insurance Company further submitted that the Doctor who assessed the disability was not examined.



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6. The learned counsel appearing for the first respondent submitted that in the alleged accident, injuries sustained by the claimant was caused only by the rash and negligent driving by the second respondent. Hence, claimant is entitled to claim compensation.

7. Perused the materials available on record.

8. As per petition averments, on 2/11/2016, at about 5.45 a.m., first respondent was walking on Kovai, Puliyalularm, near R.R.bakery, the second respondent came in a two wheeler bearing Registration No.TN-37-BH-3889, in a rash and negligent manner, dashed against the first respondent/claimant. At the time of accident, claimant was aged about 58 years, was earning Rs.10,000/- p.m., filed a claim petition before the Motor Accident Claims Tribunal, Coimbatore. The trial Court, upon considering the age and avocation of the claimant, fixed notional income as Rs.7,000/- Following the dictum laid down by the Constitution Bench of the Apex Court in NATIONAL INSURANCE COMPANY LTD Vs. PRANAY SETHI & OTHERS (AIR 2017 SUPREME COURT 5157), the trial Court



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has come to the conclusion that the claimant is entitled to the future prospects at the rate of 10%, as he was aged between 50 – 60 years, then the total salary after adding future aspects is Rs.7,700/- p.m. However, the adoption of multiplier method by the trial Court is wholly erroneous, as the disability of the petitioner is only to the extent of 20%. Therefore, multiplier method adopted by the trial Court cannot be sustained. Considering the fact that the accident had taken place during the year 2016, this Court feels that a sum of Rs.5,000/- per percentage on disability would be just and reasonable. Accordingly, compensation towards disability is fixed at Rs.1,00,000/- (20 x 50,000/-). In so far as the compensation awarded under other heads viz., Medical bills, pain and suffering, loss of amenities, extra nourishment, transport, damages to clothing and articles, this Court is of the considered view that considering the nature of injuries and the treatment taken by the petitioner, compensation awarded under the said heads are reasonable and no interference is warranted. Hence, award passed by the trial Court is modified as follows:-



Heads	Award of trial Court (in Rs.)	Award modified by this Court (in Rs.)
Disability	1,66,320/-	1,00,000/-
Medical bills	1,09,189/-	1,09,189/-
Pain & suffering	3,00,000/-	1,00,000/-
Loss of amenities	2,00,000/-	30,000/-
Extra Nourishment	10,000/-	10,000/-
Transport	10,000/-	10,000/-
Damages to clothing and articles	5,000/-	5,000/-
	8,00,509/-	3,64,189/-

The amount of compensation awarded by the Tribunal is reduced to Rs.3,64,189/- as stated above.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the order of Tribunal made in MCOP. No.771 of 2017 dated 18/12/2019 is modified by reducing the compensation from Rs.8,00,509/- to Rs.3,64,189/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant/insurance company is directed to deposit the award amount as awarded by this Court less the amount, if any, deposited along with interest, 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



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directed to transfer the said amount to the bank account of the claimant through RTGS within a period of two weeks, thereafter. No costs.

Consequently, connected Miscellaneous Petition is closed.

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mvs.

Note: Issue order copy on 6/11/2024

Index: Yes/No

Neutral Citation: Yes/No

To

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



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M.DHANDAPANI,J

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