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CMA.No.1266 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.1266 of 2022

Saravanan

Appellant

Vs

1. Lakshmi

2. The Branch Manager, Oriental Insurance Company
Limited, Puducherry

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 25.02.2020, made in MCOP.No.777 of 2018, by the Special Officer Cum Additional Sub Judge (MACT) Puducherry.

For Appellant : Mr.G.Lavanga

For Respondents : Mr.D.Bhaskaran-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, 25.02.2020, made in MCOP.No.777 of 2018, by the Special Officer Cum Additional Sub Judge (MACT) Puducherry.
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 23.06.2017. The 1st



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Respondent herein/owner of the offending vehicle remained exparte. The 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 was examined and Ex.P1 to Ex.P13 were 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, the Tribunal has awarded a total compensation of Rs.2,16,000/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Permanent Disability (30xRs.3000)	90000
2	Pain and Suffering	40000
3	Loss of Income (4x6500)	26000
4	Transportation Expenses	10000
5	Nutritious Food	10000
6	Medical Expenses	10000
7	Attendants Charges	10000
8	Comfort and Amenities	20000
Total Compensation		216000

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 contesting Respondent, 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 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 claimant was earning a sum of Rs.20,000/- p.m. as a worker in a fruit stall and the accident had occurred in the year 2017 and as per the medical records, the claimant sustained 30% visual disability and hence, the compensation of Rs.3000/- per percentage of disability fixed by the Tribunal and the monthly notional income of Rs.6,500/- arrived at by the Tribunal appear to be on the lower side and hence, they have to be redetermined and enhanced. The learned counsel for the 2nd Respondent would fairly submit that the monthly notional income of the claimant can be redetermined at Rs.5,000/-.
7. Since the accident had occurred in the year 2017, it would be appropriate to fix Rs.5,000/- per percentage of disability and also to fix the monthly notional income of the claimant at Rs.15,000/-. Thus, the compensation towards permanent disability is redetermined at Rs.1,50,000/- (30 x Rs.5,000) and the loss of income for four months is redetermined at Rs.60,000/- (Rs.4 x Rs.15,000).
8. Considering the nature of injuries, the compensation amounts of Rs.40,000/- towards pain and sufferings, Rs.10,000/- towards transportation expenses, Rs.10,000/- towards nutritious food, Rs.10,000/- towards medical expenses and Rs.10,000/- towards attendants charges, as awarded by the Tribunal are just and proper and hence, the same are confirmed.
9. As per the medical records, the claimant is suffering from "Traumatic optic



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neuropathy with visual disability. However, the Tribunal has awarded a sum of Rs.20,000/- towards loss of comfort and amenities, which appears to be on the lower side. Hence, considering the nature of such disability, the said compensation needs to be redetermined and accordingly, it is enhanced to Rs.50,000/- under the head of loss of comfort and amenities. In all, the claimant is entitled to a total compensation of Rs.3,40,000/- with 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, the claimant is entitled to a total compensation of Rs.3,40,000/-, (Rupees three lakhs forty thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-

S.No	Category	Award Amount (Rs.)
1	Permanent Disability (30xRs.5000)	150000
2	Pain and Suffering	40000
3	Loss of Income (4 x Rs.15000)	60000
4	Transportation Expenses	10000
5	Nutritious Food	10000
6	Medical Expenses	10000
7	Attendants Charges	10000
8	Comfort and Amenities	50000
Total Compensation		340000

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,



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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.

30.01.2024

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

1. The Special Officer Cum Additional Sub Judge (MACT) Puducherry
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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