



WEB COPY

CMA.No.2381 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2381 of 2022

and

C.M.P.No.18530 of 2022

The Divisional Manager,
Reliance General Insurance Company Ltd.
Adams Road, Nungambakkam,
Chennai – 32.

... Appellant

Vs.

1.Nithiyanandan

2.Govindaraj

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 3rd September 2021 made in MCOP.No.264 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Subordinate Judge), Tirupattur.

For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Mr.S.Parivallal for R1

R2 – No appearance



J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

WEB COPY

The Insurance Company is on appeal. Challenge is to the quantum of compensation awarded at a sum of Rs.28,88,554/- for the injuries suffered by the claimant in a motor accident that occurred on 10.07.2017.

2. The claimant sought for a compensation of Rs.75,00,000/- contending that the accident occurred due to the rash and negligent driving of the Tata Ace vehicle bearing Reg.No.TN-30-V-4776 belonging to the 2nd respondent insured with the appellant Insurance Company. The quantum was sought to be justified contending that the claimant has lost his job as software engineer because of the accident. There was both bone fracture on the right leg and the right ankle which has resulted in the right leg almost becoming dysfunctional.

3. The claim was resisted by the Insurance Company contending that the accident did not occur in the manner suggested by the claimant and the claimant contributed to the accident by his own negligence. The claimant was put to strict proof of age, disability and income.



4. The Tribunal on a consideration of the evidence on record particularly the First Information Report that was registered under Sections 279, 337 and 338 IPC against the driver of the Tata Ace vehicle and in the absence of evidence on the side of the Insurance Company concluded that the accident occurred due to the rash and negligent driving of the driver of the Tata Ace goods vehicle. On the quantum, the Tribunal found that due to the fracture sustained, the right leg of the claimant had become completely useless. The claimant is forced to walk with a support of the walker and the opinion of the Medical Board which had concluded that there was a functional disability of 35% was also taken into account by the Tribunal. The Tribunal therefore applied the multiplier method and arrived at a compensation of Rs.17,19,312/-.

5. Mr.P.Suresh Srinivasan, learned counsel appearing for the appellant would vehemently contend that the compensation awarded by the Tribunal is on the higher side. According to him, the claimant has not established that he has lost his job and he is prevented from doing any other job. It was also the contention of the learned counsel that the salary certificate showed Rs.10,000/- as salary and Rs.7,200/- as special allowance. The Tribunal was not right in including special allowance as part of the income.



6. Contending contra Mr.S.Parivallal, learned counsel appearing for the 1st respondent would submit that the finding of the Tribunal is that the right leg of the claimant has become dysfunctional and it is his evidence that he has lost his job as Facility Engineer and there is no contra evidence available on record. It is also further pointed out by the learned counsel that the claimant who was only 26 years old has lost marriage prospects as well as other amenities in life. The learned counsel would also plead that we must take into account the sufferings that is to be undergone by the 26 year old young man throughout his life time because of the injury.

7. We have considered the rival submissions. Though technically the arguments of Mr.P.Suresh Srinivasan appear to be reasonable, we find that the compensation awarded on the whole is justifiable. The salary certificate shows that Rs.10,000/- as salary and Rs.7,200/- as special allowance. The Tribunal has rightly disallowed the House Rent Allowance and Conveyance allowance in the salary to calculate the loss. The Medical Board has arrived at the disability at 35% and it is only that 35% of the loss of earning capacity that has been granted as compensation. We find that the Tribunal has awarded very small amounts towards loss of amenities, pain and sufferings and attender charges. Medical expenses of Rs.10,99,242/- has



been awarded on the basis of the bills. Therefore, it is only the amount that is spent is actually awarded under that head, which cannot be treated as compensation at all. The Tribunal has not awarded any amount towards loss of marriage prospects.

8. If we are to examine the quantum of compensation, on these factors we find that the quantum of compensation is just and reasonable and any interference would only lead to the claimant being deprived of just compensation.

9. Hence, we do not find any merit in the appeal. The appeal therefore fails and it is accordingly **dismissed**. It is stated that the Insurance Company has deposited 50% of the award amount and the Insurance Company shall deposit the remaining 50% of the award amount within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
15.03.2024

dsa

Index : No
Internet : Yes
Neutral Citation : No
Speaking order



WEB COPY

CMA.No.2381 of 2



R.SUBRAMANIAN, J.

and

R.SAKTHIVEL, J.

dsa

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Tirupattur.

C.M.A.No.2381 of 2022

15.03.2024

6/6