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C.M.A.No.2164 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.2164 of 2024
and Cross Objection No.51 of 2024

C.M.A.No.2164 of 2024

The Branch Manager,
Reliance General Insurance Company Co. Ltd.,
I Floor, Dhanam Towers, No.1, Binny main road,
Park road, Tiruppur – 641 601

...Appellant

vs.

1. M.Deepak

2. L.Balakrishanan

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 19.04.2022 passed in M.C.O.P.No.1878 of 2016 by the Motor Accident Claims Tribunal, Special District Court (MCOP cases) at Tiruppur.

For Appellant : Ms.C.Bhuvanasundari

For 1st Respondent : Mr.Ma.Pa.Thangavel



C.M.A.No.2164 of 2024

CROS OBJECTION No.51 of 2024

M.Deepak

... Cross Objector

VS.

The Branch Manager,
Reliance General Insurance Company Co. Ltd.,
I Floor, Dhanam Towers, No.1, Binny main road,
Park road, Tiruppur – 641 601

2.Mr.L.Balakrishnan

... Respondents

PRAYER: This Cross Objection is filed under Order 41 Rule 22 of CPC against the award made in M.C.O.P.No.1878 of 2016 dated 19.04.2022 on the file of Motor Accident Claims Tribunal / Special District Court at Thiruppur.

For Cross Objector : Mr.Ma.Pa.Thangavel

For 1st Respondent : Ms.C.Bhuvanasundari

JUDGMENT

(Judgment of the Court was made by Mrs.R.Kalaimathi, J.)

Aggrieved by the award passed in M.C.O.P.No.1878 of 2016 dated 19.04.2022 on the file of the Motor Accident Claims Tribunal/Special District Court (MCOP cases) at Thiruppur, Civil Miscellaneous Appeal No.2164 of 2024 has been preferred by the appellant/Insurance Company.



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2. Cross Objection No.51 of 2024 was filed by the claimant for enhancement of compensation.

3. The claim petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.40,00,000/- for the injuries sustained by the petitioner in a road traffic accident that occurred on 21.07.2014.

4. Upon consideration, the Tribunal ordered compensation under various components which are tabulated hereunder:

Sl. No.	Description	Amount awarded by the Tribunal
1.	For loss of income (12,600 X 12 X 18)	Rs.27,21,600/-
2.	For pain and suffering	Rs.1,00,000/-
3.	Extra nourishment	Rs.50,000/-
4.	For transport expenses	Rs.20,000/-
5.	For loss of amenities	Rs.1,00,000/-
6.	For attendant charges	Rs.5,00,000/-
Total		Rs.34,91,600/-

5. On 21.07.2021 at about 5.30 a.m., when the petitioner was riding a motorcycle bearing Registration No.TN 38 AR 5328 along the



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Tharampura Road towards left side in North-South direction, at the relevant point of time near Karatangadu Rathna Agency, a rider of two wheeler bearing Registration No.TN 42 J 5981 came in the opposite direction in a rash and negligent manner and hit on the petitioner and he sustained head injury, fractures and other injuries. At the relevant point of time, the petitioner was working as Mechanic and earning a sum of Rs.10,000/- per month. Due to the effects of injuries, he was unable to go for any work and claimed compensation of Rs.40,00,000/-.

6. Per contra, it was counteracted by filing counter on behalf of the appellant/Insurance Company by stating that the claimant as well as the first respondent did not have proper driving licence. Due to the negligence of the petitioner only, the accident occurred. The Insurance Company of the claimant's vehicle was not arrayed as respondent.

7. Heard Ms.C.Bhuvanasundari, learned counsel appearing for the appellant/Insurance Company and Mr.Ma.Pa.Thangavel, learned counsel appearing for the 1st respondent/Cross Objector.

8. At trial, the petitioner has examined himself as P.W.1 and the Proprietor of workshop Mr.Beer Mohamed under whom the claimant



worked was examined as P.W.2 and nine documents were marked. Ex.P.6 and Ex.P.7 are the treatment records. Ex.P.9 is the injury certificate. On the 2nd respondent side, two witnesses were examined and five documents were marked. Disability Certificate issued by the Medical Board is Ex.C1.

9. As per the treatment records Ex.P.6, the petitioner suffered fracture of Nasal Bone, Maxillary Fracture, Left Zygomatic Fracture, Visual Prognosis in both eyes. When he was referred for assessment of disability before Thirppur Medical Board, the Board assessed his disability at 100% as he lost his sight in both eyes. Therefore, the Tribunal adopted multiplier method for granting of compensation. The petitioner is stated to be a Mechanic and he was earning Rs.10,000/- per month. But the Tribunal has fixed his monthly income at Rs.9,000/- per month and for Future Prospects 40% was added. For the negligence of the petitioner, Contributory Negligence at 5% was deducted from the total compensation (Rs.1,74,580/-).

10. The petitioner who was 19 years old boy, due to the accident, lost his vision in both eyes besides fracture over Nasal bone, Maxillary Fracture and left Zygomatic bone. As he lost his vision in both eyes, his



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disability was assessed at 100%. Therefore, in the young age itself, the petitioner lost his complete vision, and he has to depend upon some person for his food, clothing and shelter. On a careful perusal of the treatment records and the compensation granted under various components, we are in agreement with the Tribunal in granting the above said compensation, and in such a view of the matter, we find no perversity or infirmity in the award of the trial Court.

11. In the result, this Civil Miscellaneous Appeal No.2164 of 2024 preferred by the Insurance Company and Cross-Objection No.15 of 2024 filed by the claimant stands dismissed by confirming the award of the Tribunal. There is no order as to costs.

(J.N.B.,J.) (R.K.M.,J.)
04.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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J.NISHA BANU, J.

and

R.KALAIMATHI, J.

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To

The Motor Accident Claims Tribunal,
Special District Court (MCOP cases),
Tiruppur.

C.M.A.No.2164 of 2024

and Cross Objection No.51 of 2024

04.09.2024