



C.M.A.No.33 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.33 of 2022

and

C.M.P.No.224 of 2022

The New India Assurance Company Limited,
New Bus Stand, Perambalur.

...Appellant

Vs

1.K.Arun
2.Ashok Kumar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 07.01.2019 made in M.C.O.P.No.1006 of 2015 on the file of the Motor Accident Claims Tribunal (Sub Court), Perambalur.

For Appellant : Mr.C.Ramesh Babu

For Respondents : Mr.M.Lokesh, for R1
No appearance for R2



WEB COPY



C.M.A.No.33 of 2022

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Insurance company challenging the quantum of compensation awarded by the Tribunal.

2. The learned counsel for the appellant would submit that on 04.03.2015 at about 12:00 noon, while the claimant was driving Maruti Omni Van bearing Registration No.TN-43-E-8196 at Thuraiyur to Musiri Road, a Lorry bearing Registration No.TN-29-AR-2541 came in a rash and negligent manner and dashed against the claimant, due to which, the claimant had sustained grievous injuries. Hence, considering all those aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	For expenses relating to Transportation, Extra nourishing and damage clothes miscellaneous expenditure	50,000
2	Attender charges	10,000
3	Medical Expenses	2,50,000



<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
4	Pain and Sufferings	50,000
5	Disability	1,76,000
6	Loss of Earning during the period of treatment	60,000
7	Loss of earning capacity due to the accident	2,93,000
8.	Loss of amenities	50,000
9.	Future medical Expenses	50,000
	Total Compensation is fixed at	9,89,000

3. By referring the above, the learned counsel for the appellant would submit that the compensation was wrongly awarded by the Tribunal under both the heads namely, “disability” and “loss of earning capacity due to accident” for a sum of Rs.1,76,000/- and Rs.2,93,000/- respectively. Further, he would contend that the Tribunal ought to have awarded the compensation only under one head i.e., either “disability” or “loss of earning capacity due to accident”. Hence, he requested this Court to re-consider the said aspect.

4. In reply, the learned counsel appearing for the respondent/claimant would submit that in the present case, there is no challenge with regard to the determination of disability at 58.6% and there is no doubt that the claimants are



certainly entitled for compensation based on the multiplier method. In such case, if this Court delete any one head and awarded the compensation towards disability by applying the multiplier method, the amount arrived by this Court would be much more than the total amount awarded by the Tribunal under both heads. Hence, he would fairly submit that the said amount awarded by the Tribunal shall be confirmed by this Court.

5. The learned counsel for the appellant would also accept the aforesaid submission made by the learned counsel for the appellant and hence, he would suggest that if this Court is inclined to accept the contention of the appellant but re-determine the compensation towards disability by applying multiplier method, this Court may confirm the award passed by the Tribunal.

6. I have given due consideration for the submissions made by the learned counsel for the appellant and the respondents and also perused the materials available on record.

7. In the present case, no doubt that the compensation under the head



“disability” was not awarded based on the multiplier method. Further, the grievance of the appellant/insurance company was that the Tribunal ought not to have awarded the compensation for both the heads, namely “disability” and “loss of earning capacity due to accident”. However, it was submitted by the learned counsel for the claimants/respondents that if the multiplier method is applied for awarding compensation towards disability, the amount arrived by this Court would be much more than the total amount awarded by the Tribunal under the two different heads. In such case, both the learned counsel fairly submitted that the compensation awarded by the Tribunal may be confirmed by this Court.

8. In view of the above, this Court also feels that it would be appropriate to confirm the award passed by the Tribunal, since if this Court re-determine the award by applying multiplier method, definitely, it will not be advantageous for the Insurance company/appellant. Further, since no challenge was made by the respondent/claimant with regard to the compensation awarded by the Tribunal, this Court is inclined to confirm the award passed by the Tribunal as it is without any modifications.



C.M.A.No.33 of 2022

WEB COPY

9. In the result, this Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the balance award amount, which is yet to be deposited, along with the interest, within a period of 8 weeks from the date of receipt of copy of this order to the credit of MCOP.No.1006 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Judge, Perambalur. Upon such deposit, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants/respondents by way of RTGS, within a period of 3 weeks from the deposit or from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimants, whichever is earlier. No costs. Consequently, the connected miscellaneous petition is also closed.

02.01.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

nsa

To:

The Motor Accident Claims Tribunal,
Sub Judge, Perambalur

6/8



WEB COPY



C.M.A.No.33 of 2022



WEB COPY



C.M.A.No.33 of 2022

KRISHNAN RAMASAMY,J.

nsa

C.M.A.No.33 of 2022
and C.M.P.No.224 of 2022

02.01.2024