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C.M.A.No.2789 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.2789 of 2023

and

C.M.P.No.25703 of 2023

The Branch Manager,
Reliance General Ins.Co.Ltd.,
No.43B, Cowly Brown Road,
2nd Floor, Shri Abirami Towers,
R.S.Puram, Coimbatore 641 002.

... Appellant/Petitioner

Vs.

1. Mr.N.Anoopraj
2. Mr.R.Meenakshisundaram
3. Mrs.M.Bhuvaneswari

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Decree and Judgment dated 10th April 2019 passed in M.C.O.P.No.2016 of 2016, by the Hon'ble Motor Accident Claims Tribunal, Principal Sub Court, Tiruppur.

For Appellant : Ms.C.Bhuvanasundari
For R1 : K.Myilsamy
For R2 & R3 : Dispensed with



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JUDGEMENT

This Civil Miscellaneous Appeal has been preferred by the Insurance Company, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Principal Sub Court, Tiruppur, in M.C.O.P.No.2016 of 2016 dated 10.04.2019.

2. On 03.08.2016 at about 4.30 a.m., when the claimant/injured was riding a two wheeler bearing Reg.No.TN-38-T-3795, a car, bearing Reg.No.TN-30-S-0617, drove the vehicle in a rash and negligent manner and dashed against the claimant. Due to said accident, the claimant sustained right leg Tibia fracture and grievous injuries all over his body. Thereafter, the claimant has filed a claim petition before the Tribunal, claiming a compensation of Rs.25,00,000/-.

3. The learned counsel for the appellant/Insurance Company submitted that, the Medical Board examined the claimant and fixed partial permanent disability at 40% and that the Tribunal has taken the entire 40% and awarded



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compensation. Further, she contended that, though the claimant was aged about 25 years and working as a Researcher & Documentary Shoots and was earning Rs.20,000/- per month, he has not lost the entire earning, however, there is some difficulty while walking. The Tribunal has taken 40% as partial permanent disability, which is on the higher side, and the same may be reduced. Further, she submitted that the amounts awarded under the heads “pain and suffering” and “mental agony”, are on the higher side, and the same can be re-determined by this Court.

4. Per contra, the learned counsel appearing for the first respondent submitted that, the compensation awarded by the Tribunal under different heads is just and fair, and the same may be confirmed.

5. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the first respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded. In the



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present case, the Medical Board fixed the disability of the claimant at 40%, and

the certificate given by the Medical Board to that effect is marked as Ex.C1. On

perusal of the said exhibit, it appears that the partial permanent disability of the

claimant has been fixed at 40%, and this Court vide order dated 09.01.2024,

directed the first respondent/injured to appear before this Court. Today, he

appeared before this Court, and this Court noticed that due to the injuries, he is

not able to walk properly, and he is limping while walking. Therefore, this

Court feels that, though the Tribunal has taken the entire partial permanent

disability at 40%, considering the nature of injuries sustained by the claimant,

this Court feels it appropriate to fix 30% as partial permanent disability.

Further, the amount awarded under the heads of “pain and suffering” and

“mental agony” together, are on the higher side. Therefore, a sum of

Rs.15,000/- awarded by the Tribunal towards “mental agony” is set-aside,

thereby maintaining the amount of Rs.50,000/- awarded under the head of “pain

and suffering”. The amount awarded by the Tribunal under other heads stand

confirmed. The Tribunal fixed notional monthly income at Rs.9,000/- per

month and adding future prospects at 40% as per the dictum laid down by the

Hon'ble Apex Court, the total income is quantified at Rs.12,600/- per month.

The injured was aged about 25 years at the time of accident as evidenced from

the records, adopting the multiplier of 18 as per the decision of Apex Court, the



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loss of earning due to disability is calculated at Rs.12,600/-x12x18x(30/100) =

Rs.8,16,480/-.

7. Consequently, a sum of **Rs.10,88,640/-** awarded by the Tribunal under the head of “loss of earning due to disability” is hereby modified as **Rs.8,16,480/-**.

8. Insofar as the compensation awarded by the Tribunal under other heads is concerned, this Court finds the same are just and proper and are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Total loss of earning due to disability	10,88,640/-	8,16,480/- (reduced)
Future medical expenses	20,000/-	20,000/-
Pain and sufferings	50,000/-	50,000/-
Loss of amenities	50,000/-	50,000/-
Mental agony	15,000/-	Nil
Nutrition	10,000/-	10,000/-
Transport	5,000/-	5,000/-
Medical Bills	2,13,552/-	2,13,552/-
Total	14,52,192/-	11,65,032/-
Rounded off	14,50,000/-	11,65,000/-



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9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by reducing the compensation amount from **Rs.14,50,000/-** to **Rs.11,65,000/-**. The appellant/Insurance Company is directed to deposit the said amount along with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2016 of 2016 on the file of Principal Sub Court, Tiruppur. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. No costs. Consequently, connected Miscellaneous Petition is closed.

01.02.2024

Index : Yes / No
NCC : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Principal Sub Court, Tiruppur.

2. The Section Officer,



V.R. Section,
High Court, Madras.

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Krishnan Ramasamy,J.,

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