



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2024

CORAM:

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

C.M.A.No.2750 of 2023

and

C.M.P.Nos.25345 of 2023 & 14370 of 2024

Reliance General Insurance Company Limited,
Old No.15, New No.29, 3rd Floor,
North Usman Road, Chennai – 600 017.

... Appellant

Vs.

1.N.Baskaran

2.Akbar Basha. A

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 06.06.2022 passed in M.C.O.P.No.4389 of 2016 on the file of MACT (Special Sub Court No.2), Small Causes Court, Chennai.

For Appellant : Mr.P.Suresh Srinivasan

For Respondents : Mr.G.Raja for R1

R2 – No such person



J U D G M E N T

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

With the consent of the learned counsel for the parties, the appeal itself is taken up for hearing.

2. The Insurance Company is on appeal challenging the quantum of compensation fixed at Rs.22,17,600- by the Tribunal for the injuries caused to the 1st respondent in a road accident that occurred on 23.04.2016.

3. According to the learned counsel for the appellant, the appeal is on a very short point regarding the percentage of future prospects adopted by the Tribunal.

4. Hence, we do not deem it necessary to delve into the other aspects. After fixing the income of the injured at Rs.10,000/- per month the Tribunal added 40% towards future prospects. According to the learned counsel for the appellant, since the injured 1st respondent was born on 05.01.1976 and the accident occurred on 23.04.2016 he was aged above 40 years and hence



in terms of paragraph No.59.4 of the judgment of the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (16) SCC 680**, the percentage of future prospects could only be 25% and not 40%.

5. Paragraph No.59.4 of the judgment of the Hon'ble Supreme Court in the case referred to supra reads as follows:-

*59.4 In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. **An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component. (emphasis supplied)***

6. A reading of the above pronouncement of the Hon'ble Supreme Court makes it clear that the Court can adopt an increase of 25% towards future prospects for the claimant who is not below 40 years. From the materials available it could be seen that the claimant was above 40 years on the date of the accident. Hence, adoption of 40% as future prospects by the



Tribunal cannot be upheld. It should be only 25%.

WEB COPY

7. If the compensation is re-worked on the aforesaid basis the compensation that the claimant would be entitled to towards disability would be Rs.12,500/- x 12 x 15 x 60/100 = Rs.13,50,000/-. The compensation awarded under the other heads is confirmed. Thus worked out the total compensation would be as follows:-

Disability	:	Rs.13,50,000/-
Pain and Sufferings	:	Rs. 40,000/-
Transportation	:	Rs. 4,000/-
Medical Expenses	:	Rs. 6,44,032/-
Extra Nourishment	:	Rs. 10,000/-
Attender Charges	:	Rs. 7,500/-
Total	:	Rs.20,55,532/-

8. In view of the above the appeal is **allowed in part** and the award of the Tribunal is modified and the claimant will be entitled to a sum of Rs.20,55,532/- with interest at 7.5% as awarded by the Tribunal. The



WEB COPY

Insurance Company has deposited 75% of the compensation awarded by the Tribunal with interest. The claimant is permitted to withdraw the said amount. The Insurance Company will have eight (8) weeks time from the date of receipt of the copy of the order to deposit the balance, if any. No costs. Consequently, the connected petitions in C.M.P.No.14370 of 2024 is dismissed and C.M.P.No.25345 of 2023 is closed.

(R.S.M., J.) (R.S.V., J.)
12.07.2024

dsa
Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order / Non-Speaking order

To

The Special Sub Court No.2,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.



WEB COPY



C.M.A.No.2750 of 2

R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

dsa

C.M.A.No.2750 of 2023

12.07.2024