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CMA.No.2074 of 2023
and C.M.P.No.20227 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2074 of 2023
and C.M.P.No.20227 of 2023

The Branch Manager,
Reliance General Insurance Company Limited,
1st Floor, Dhanam towers,
No.1, Binny Main Road,
Park Road, Tirupur.

... Appellant

Vs

1. Tr.Arumugam
2. R.R.Kavin

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated 28.02.2023 in M.C.O.P.1545/2019 on the file of the Motor Accidents Claims Tribunal, Tirupur.

For Appellant : Mr.G.Vasudevan
For Respondents : No appearance

JUDGMENT

Questioning the quantum of compensation awarded by the Tribunal, the present appeal is filed by the Reliance General Insurance Company Limited.



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2. Though notice was served on the respondents and their names are printed in the cause list, there is no representation on behalf of them.

3. Heard Mr.G.Vasudevan, learned counsel for the appellant.

4. Mr.G.Vasudevan, learned counsel appearing for the appellant contended that though the Medical Board assessed the partial permanent disability of the claimant as 26%, the Tribunal had wrongly taken it up as 30% and also fixed monthly notional income of the claimant as Rs.12,000/- in the absence of any proof of income. He also relied on the decision of the Hon'ble Division Bench of this Court in ***Mohammed Babu Vs. MGM Travels*** reported in ***2019 (1) TN MAC 18 (DB)*** and contended that when the Tribunal adopted multiplier method to assess loss of future earning capacity, no amount can be awarded towards loss of income. He, therefore, prayed for scaling down the compensation awarded by the Tribunal.



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5. A perusal of the disability certificate (Ex.P10) shows that the claimant has suffered the following injuries:

"Grade 3 compound comminuted metaphyseal fracture tibial condyle on the right leg" and split skin grafting (SSG) has also been done after fixing of plate on his right leg.

6. Since there is a functional disability, the Tribunal has adopted multiplier method for awarding loss of future earning capacity. However, the Tribunal after adopting multiplier method, also awarded a sum of Rs.60,000/- towards loss of income for five months (12000 X 5) and the same cannot be sustained in view of the fact that the Tribunal had adopted multiplier method for awarding compensation towards the loss of future earning capacity.

7. In the instant case, the claimant was aged 22 years at the time of accident. According to him, he was earning a sum of Rs.15,000/- p.m. However, he did not substantiate the same by adducing acceptable evidence.



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In the circumstances, considering the age of the claimant and the year of accident, his notional monthly income is fixed as Rs.12,000/-. As per the decision of the Supreme Court of India in *National Insurance Co. vs Pranay sethi and others* reported in **2017 (2) TNMAC 601**, 40% is added towards future prospects of the claimant. The proper multiplier is 18 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation for loss of earning capacity

Notional income - Rs.12,000/-
40% Future prospects - Rs.16,800/-
Loss of earning capacity - $16,800 \times 12 \times 18 \times 26/100$
= Rs.9,43,488/-

8. The following comparative chart would show the amount awarded by the Tribunal and the amount awarded by this Court under various heads:

<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>
1.	Loss of earning for a	Rs.60,000/-	Nil



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<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>
	period of five months during the period of recovery		
2.	Compensation for future loss of income	Rs.10,88,640/-	Rs.9,43,488/-
3.	Expenses towards transportation	Rs.10,000/-	Rs.10,000/-
4.	Expenses towards extra nourishment	Rs.25,000/-	Rs.25,000/-
5.	Expenses towards attender charges	Rs.25,000/-	Rs.25,000/-
6.	Damages to cloths and articles	Rs.5,000/-	Rs.5,000/-
7.	Pain and Suffering and Loss of amenities (Rs.50,000/- + Rs.50,000/-)	Rs.1,00,000/-	Rs.1,00,000/-
8.	Medical expenses	Rs.3,36,397/-	Rs.3,36,397/-
TOTAL		Rs.16,50,037/-	Rs.14,44,885/-

9. Thus, the compensation awarded by the Tribunal is scaled down to Rs.14,44,885/- from Rs.16,50,037/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.



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Consequently, connected miscellaneous petition is closed.

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- ii. The compensation awarded by the Tribunal is scaled down to Rs.14,44,885/- from Rs.16,50,037/-
- iii. The appellant, Reliance General Insurance Company Limited, is directed to deposit the modified compensation amount i.e., Rs.14,44,885/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.1545/2019 on the file of the Motor Accident Claims Tribunal, Tirupur.
- iv. On such deposit being made, the Respondent / claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law.

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Index : Yes/No
Speaking / Non-speaking order
vum

To

1. The Motor Accidents Claims Tribunal,



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2. The Section Officer,
VR Section, Madras High Court,
Chennai.

R. HEMALATHA, J.

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