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CMA.No.1261 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.1261 of 2023

Manoharan

Appellant

Vs

1. M/s.NTL Call Taxi Private Limited,
Chennai-103

2. United India Insurance Company Limited
Chennai-6 Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 16.08.2021, made in MCOP.No.812 of 2017, by the IV Small Causes Court (MACT) Chennai.

For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondents : Mr.J.Michael Visvasam-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, challenging the quantum of compensation, awarded by the judgement and decree, dated, 16.08.2021, made in MCOP.No.812 of 2017, by the IV Small Causes Court (MACT) Chennai.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.35,00,000/- on various heads, for the injuries sustained



CMA.No.1261 of 2023

WEB COPY

by him, in a motor road accident, which took place on 23.01.2017. The 1st Respondent herein/owner of the offending vehicle remained exparte. The claim petition was resisted, on various grounds, by the 2nd Respondent/ Insurance Company, by filing a counter. On the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P12 were marked. Ex.C1 was marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle, belonged the 1st Respondent and insured with the 2nd Respondent, the Tribunal has awarded a total compensation of Rs.1,94,000/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be payable by the 2nd Respondent Insurance Company, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Disability	100000
2	Loss of Income	20000
3	Pain and Suffering	15000
4	Transportation Expenses	5000
5	Extra Nourishment	15000
6	Damage to Clothes	2000
7	Attendants Charges	7000
8	Loss of Amenities	20000
9	Mental Agony	10000
Total Compensation		194000

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel for the Appellant and the contesting Respondent, considered their submissions and also perused the entire materials placed on record.



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5. Since there is no quarrel over the manner, in which the accident had occurred, negligence aspect and the liability aspect as well and the dispute is only with regard to the quantum of compensation, the findings of the Tribunal with respect to the manner of the accident, negligence aspect and liability aspect are confirmed and also it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellant, the accident had happened in the year 2017 and at the time of the accident, the claimant was aged 56 years old and he was earning a sum of Rs.20,000/- p.m. as a Security Guard and due to the accident, the claimant had sustained four fractures on his left femur, which are grievous in nature and even the Doctor has assessed the disability at 25% and due to the fractures, he is unable to walk even now. Hence, the Tribunal ought to have awarded the compensation by applying the multiplier method, instead of applying percentage method. The monthly notional income of the claimant fixed by the Tribunal at Rs.20,000/- and the compensation awarded under the other heads are reasonable. In such circumstances, the impugned compensation is to be redetermined and enhanced.
7. The learned counsel for the 2nd Respondent Insurance Company would submit that considering the nature of injuries suffered by the claimant, fixing 15% disability would be proper and just and accordingly, the impugned compensation is to be arrived at.
8. Considering the submissions of the learned counsel on either side and upon



CMA.No.1261 of 2023

perusal of the documents, it appears that the claimant has suffered four fractures on the femur and the accident is of the year 2017. Considering the nature of injuries suffered by the claimant, which are in the nature of affecting the day to day activities to some extent, this Court is of the view that the Tribunal, while arriving at the compensation towards disability, ought to have awarded compensation by applying the multiplier method, instead of applying percentage method, but it failed to do so. Hence, it would be just and fair to arrive at the compensation towards disability, by adopting the multiplier method.

9. However, since the claimant did not subject himself to assessment for his disability by the Medical Board, considering the other facts and circumstances and the nature of injuries, this Court is inclined to fix the disability at 15%. Since the age of the claimant was 56 years old at the time of the accident, the proper multiplier is 9. Since it is claimed that the claimant worked as a Security Guard in a Private Firm, a sum of Rs.12,000/- is fixed as the monthly notional income of the claimant. Thus, the compensation towards continuing disability would come to Rs.1,94,400/- ($\text{Rs.}12000 \times 12 \times 9 \times 15 / 100$).

10. Considering the nature of injuries, the claimant would not have carried on his work for at least two months. But, the Tribunal has awarded compensation towards loss of income for one month, which is not proper. Hence, it would be appropriate to arrive at a compensation towards loss of income for two months and thus, it would come to Rs.24,000/- ($\text{Rs.}12000 \times 2$). The



CMA.No.1261 of 2023

compensation amounts awarded under the other heads, which are not in dispute, are reasonable and hence, they are confirmed. In all, the claimant is entitled to a total compensation of Rs.2,92,400/-, with interest 7.5% p.a. from the date of the claim petition till the date of realisation.

11. In fine, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.2,92,400/-, (Rupees two lakhs ninety two thousand four hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-

S.No	Category	Award Amount (Rs.)
1	Disability (12000x12x9x15/100)	194400
2	Loss of Income	24000
3	Pain and Suffering	15000
4	Transportation Expenses	5000
5	Extra Nourishment	15000
6	Damage to Clothes	2000
7	Attendants Charges	7000
8	Loss of Amenities	20000
9	Mental Agony	10000
Total Compensation		292400

The claimant shall pay proper court fee for the enhanced compensation amount. The 2nd Respondent / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order and also the interest for the delay in filing the appeal if any for the enhanced compensation, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is



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CMA.No.1261 of 2023

KRISHNAN RAMASAMY, J.

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directed to transfer, by way of RTGS, the entire compensation amount, with interest due, directly to the bank account of the claimant, within a period of three weeks thereafter. No costs.

13.02.2024

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

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To

1. The IV Small Causes Court (MACT) Chennai
2. The Record Keeper, VR Section, High Court, Madras

CMA.No.1261 of 2023