IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.2648 of 2023
and
C.M.P.No.24494 of 2023

The Manager,
Reliance General Insurance Company Limited,
Reliance House, No.6, Haddows Road,
Nungambakkam, Chennai-600 034. ... Appellant /2nd respondent

Vs.

1.Y.Vinothini ... 1st Respondent / Petitioner

2.M/s.Delhi Public School,
Unworld City, Nallambakkam,
Chengalpattu,
Kanchipuram District. ... 2nd Respondent / 1st Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.01.2023 passed in M.C.O.P.No.3295 of 2016 on the file of Motor Accident Claims Tribunal (II Judge, Court of Small Causes), Chennai.

For Appellant : Mr.P.Suresh Srinivasan

For 1st Respondent : Mrs.Ramya V.Rao
For 2nd Respondent : Served – No Appearance

JUDGMENT

(The Judgment of the Court was delivered by Mrs.R.Kalaimathi, J.,)

Not being satisfied by the award dated 24.01.2023 passed in M.C.O.P.No.3295 of 2016 on the file of Motor Accident Claims Tribunal (II Judge, Court of Small Causes), Chennai, the Insurance Company herein(2nd respondent) has preferred this Civil Miscellaneous Appeal.

2. The claim petition was filed under Section 166 of Motor Vehicles Act, r/w. Rule 3 of Motor Accident Claims Tribunal Rules, claiming compensation of Rs.1,00,00,000/- for the injuries sustained by the petitioner Ms.Vinothini Yoganathan.

3. Heard Mr.P.Suresh Srinivasan, learned counsel appearing for the appellant / Insurance Company and Mrs.Ramya V.Rao, learned counsel appearing for the 1st respondent / claimant.

4. The learned counsel Mr.P.Suresh Srinivasan, appearing for the appellant/Insurance Company would strenuously argue that while computing the monthly income, the Tribunal has added 50% as regards future prospects. He would further contend that in injury cases, if the

multiplier method is adopted for computing the loss of income, the claimant is not entitled for loss of earning during treatment period. But the Tribunal has granted Rs.38,754/- towards loss of earning during treatment period.

5. Per contra, Mrs.Ramya V.Rao, learned counsel appearing for the 1st respondent/claimant would vehemently contend that the claimant having suffered serious injuries and bedridden and granting of future prospects of 50% cannot be considered to be incorrect and sought for dismissal of the appeal.

6. The petitioner who was working as a lecturer and earning a sum of Rs.15,200/- per month on account of the accident sustained serious injuries (i) Unstable Sacrum Fracture, (ii) Fracture of S1, S2 Vertebra and (iii) multiple injuries all over the body. The Tribunal has adopted multiplier method for computing the loss of income. The dispute is with regard to future prospects and under two heads. Those details have been given hereunder:

i) Towards loss of income : Rs.18,83,444/-

ii) Towards loss of earning during treatment period : Rs.38,754/-

7. At trial, two witnesses were examined on the claimant side and 26 documents were marked. Copy of Pay Slip, Resignation Letter and Attendance Register are Exs.P24 to P26. On the side of the respondents, neither any oral evidence was let in nor any document was marked.

8. The claimant was working as lecturer in a private Engineering College and earning a sum of Rs.15,200/- per month. Disability Certificate issued by the Medical Board is Ex.C1. As per the evidence of PW2, her monthly income was fixed at Rs.12,918/- which is not in dispute. Based on Ex.P19(Copy of Aadhaar Card), age of the claimant is fixed as 24 years at the relevant point of time. As regards the future prospects, the Hon'ble Supreme Court has standardised the details in case of persons who are self-employed or on a fixed salary. Therefore, as per the law laid down by the Apex Court in ***National Insurance Co.Ltd., v. Pranay Sethi*** reported in ***2017 (2) TN MAC 609 (SC)***, for future prospects, while computing the income, 40% has to be added. Therefore, loss of income is computed as mentioned below:

Rs.12918/- + 40% = Rs.18,085/-.

Towards Loss of Income : Rs.18085/- X 12 X 18m X 45%=Rs.17,57,862/-.

9. The Tribunal while adopting multiplier method for computing loss of income has also granted an amount of Rs.38,754/- towards loss of earning during treatment period. No doubt, the petitioner/claimant sustained the above stated injuries on account of the accident. The Medical Board assessed her disability at 45% and upon consideration of nature of injuries and the effects of injuries upon her, the Tribunal has taken the disability at 45% as functional disability and multiplier method was adopted for computing the loss of income. Therefore, in such a view of the matter again for the treatment period loss of income need not be computed as already loss of income was arrived at. Therefore, the claimant is not entitled for the above said amount towards loss of earning during treatment period.

10. Based on the aforestated discussions, the compensation as computed above is reworked and tabulated as given under:

Sl. No.	***Description***	***Amount awarded by Tribunal***	***Amount awarded by this Court***	***Award confirmed or enhanced or granted or reduced or rejected***
1	Towards Loss of	Rs.18,83,444/-	Rs.17,57,862/-	**Reduced**

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced or rejected
	Income			
2	Towards Pain and Sufferings	Rs. 50,000/-	Rs. 50,000/-	Confirmed
3	Towards Loss of earning during Treatment	Rs. 38,754/-	-	Rejected
4	Towards Medical Expenses	Rs. 2,17,202/-	Rs. 2,17,202/-	Confirmed
5	Towards Loss of Amenities	Rs. 50,000/-	Rs. 50,000/-	Confirmed
6	Towards Attender Charges	Rs. 20,000/-	Rs. 20,000/-	Confirmed
7	Towards Transportation Charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
8	Towards Extra Nourishment	Rs. 20,000/-	Rs. 20,000/-	Confirmed
	Total	Rs.22,89,400/-	Rs.21,25,064/-	
	Rounded off to		**Rs.21,25,000/-**	

11. Thus, the compensation awarded by the Tribunal is reduced from Rs.22,89,400/- to Rs.21,25,000/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

(i) The Civil Miscellaneous Appeal stands Partly Allowed.

(ii) The compensation awarded by the Tribunal is reduced from Rs.22,89,400/- to Rs.21,25,000/-.

(iii) The Appellant / Insurance Company is directed to deposit the modified compensation amount i.e., **Rs.21,25,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation to the credit of M.C.O.P.No.3295 of 2016 on the file of Motor Accident Claims Tribunal (II Judge, Court of Small Causes), Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the Claimant is permitted to withdraw the same along with interest and costs (less the amount if any already withdrawn), by making necessary cheque application before the Tribunal. No costs. Consequently, connected civil miscellaneous petition is closed.

(J.N.B. J.,) (R.K.M.J.,)
24.09.2024

Index: Yes/No
Speaking Order/Non Speaking order
Neutral Citation Case:Yes / No
ssn

To

1. The Motor Accidents Claims Tribunal,
(II Judge, Court of Small Causes), Chennai.

2. The Section Officer,
V.R Section,
High Court, Madras.

J.NISHA BANU, J.,
and
R.KALAIMATHI.J.,

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