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CMA.No.681 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.681 of 2024

Babu

Appellant

Vs

1. K.Sakthivel

2. The Branch Manager, The Reliance General
Insurance Company Limited, Chennai-6

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 29.03.2022, made in MCOP.No.53 of 2015, by the Sub Court (MACT) Tiruttani.

For Appellant : Mr.M.Lokesh

For Respondents : Mr.P.Suresh Srinivasan-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, 29.03.2022, made in MCOP.No.53 of 2015, by the Sub Court (MACT) Tiruttani.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.50,00,000/- on various heads, for the injuries sustained by him, in a motor road accident, which took place on 07.11.2014. The 1st Respondent herein/owner of the offending vehicle remained exparte. The



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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 was examined and Ex.P1 to Ex.P7 were marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the 1st Respondent, the Tribunal has awarded a total compensation of Rs.3,31,486/-, on various heads, with interest at 6% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Pain and Suffering	30000
2	Extra Nourishment	5000
3	Medical Expenses	52486
4	Loss of Disability	240000
5	Attendants Charges	4000
Total Compensation		331486

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 Insurance Company, considered their submissions and also perused the entire materials placed on record.
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.



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6. According to the learned counsel for the Appellant, the accident had occurred in the year 2014 and at the time of the accident, the claimant was aged 37 years old and he was earning a sum of Rs.8,472/- p.m. as a Labourer in a Spinning Mill. Due to the accident, his left leg above the knee was amputated, for which he was assessed to 80% permanent disability by the Medical Board and hence, the Tribunal should have adopted the multiplier method, instead of percentage method and hence, the compensation awarded under the head of disability suffered by the claimant is on the lower side. Further, no compensation was awarded towards future medical expenses. Hence, considering the said aspects, the impugned compensation has to redetermined and enhanced by applying the proper multiplier and adding 40% towards future prospects.
7. On the other hand, the learned counsel for the 2nd Respondent Insurance Company would submit that since the accident is of the year 2014, the compensation claimed by the claimant is on the higher side and that the compensation arrived at by the Tribunal by adopting the percentage method is just and fair and hence, it need not be interfered with.
8. It is not in dispute that the claimant's left leg above the knee was amputated. He was working as a labourer in a Spinning Mill and due to such amputation, he lost his avocation. Though he was assessed to 80% disability as per Ex.P7 disability certificate, such permanent disability would be 100%. However, the Tribunal erred in applying the percentage method, while arriving at the compensation for disability. When a person lost his leg above



the knee, he cannot be expected to continue his avocation. Nobody will provide work to the claimant who suffers such an amputation of his leg above the knee. Even such a person will get a job only by mercy. When for such a disability, he was assessed to 80% permanent disability by the Medical Board, the Tribunal ought to have adopted the multiplier method, but it failed to do so.

9. In so far as the monthly income of the claimant is concerned, it is claimed that the claimant was earning a sum of Rs.8,472/ p.m. as a Labourer in a Spinning Mill. Since the accident is of the year 2014, even in the absence of proof to show his monthly income, it would be appropriate to fix the same as claimed by the claimant. Since this Court deems it fit to adopt the multiplier method, 40% towards future prospects is to be added. Considering the age of the claimant, i.e. 37 years, the proper multiplier would be 15. Thus, the compensation under the head of continuing disability would come to Rs.17,07,984/- ($Rs.8742 + ((40/100) * 8742) * 80/100 * 12 * 15$).

10. Further, no amount was awarded towards future medical expenses and hence, considering the nature of injuries, a sum of Rs.1,00,000/- is awarded under the said head. The compensation amounts awarded under the other heads are just and proper and hence, they are confirmed. In all, the claimant is entitled to a total compensation of Rs.18,99,470/- 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.18,99,470/-, which is rounded off to



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Rs.19,00,000/- (Rupees nineteen lakhs 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	Continuing Disability	1707984
2	Future Medical Expenses	100000
3	Pain and Suffering	30000
4	Extra Nourishment	5000
5	Medical Expenses	52486
6	Attendants Charges	4000
Total Compensation		1899470

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 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 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.

26.03.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

1. The Sub Court (MACT) Tiruttani.
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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