



C.M.A.No.1180 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1180 of 2020

And

C.M.P.No.7374 of 2020

Shriram General Insurance Company Limited
Having its branch office at VCT V Main Road,
Sathy Road, Erode – 638 003.

... Appellant

Vs.

1.V.Nagaraj
2.B.Zakir Hussain
3.R.Gowthaman

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 24.07.2017 made in M.C.O.P.No.339 of 2015, on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Erode and be pleased to dismiss the claim for compensation.

For Appellant : Mr.V.Govardhanan
for M/s.S.Dhakshnamoorthy
For Respondents : R1 to R3 – No Appearance



C.M.A.No.1180 of 2020

WEB COPY

J U D G M E N T

The third respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 24.07.2017 passed by the Motor Accidents Claims Tribunal Special Subordinate Court, Erode, in M.C.O.P.No.339 of 2015.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.5 Lakhs alleging that on 04.10.2015 at about 02.30 p.m., the first respondent travelled as pillion rider in the motorcycle bearing Registration No.TN 30 AS 0762 driven by the second respondent on the Omalur Road from West to East direction near Anna Park in a rash and negligent manner and hit against a preceding auto rickshaw, due to which, the first respondent sustained injuries. After adjudication, the Tribunal awarded a sum of Rs.5,42,600/- as compensation to the claimant along with interest at 7.5% p.a. from the date of petition till the date of deposit and directed the appellant to deposit the award amount.



C.M.A.No.1180 of 2020

3.The learned counsel appearing for the appellant further submitted that aggrieved by the quantum of compensation awarded by the Tribunal, this appeal has been filed. The learned counsel further submitted that the Doctor assessed the disability of the claimant as 32% partial permanent disability, however, the Tribunal arrived at a conclusion that claimant suffered 25% functional disability and awarded compensation by adopting multiplier method, which is not sustainable one and further submitted that the amount awarded under the other heads are also on the higher side.

4.Heard the learned counsel appearing for the appellant. Though the name of the respondents 1 and 3 have been printed in the cause list, there is no representation for the respondents 1 and 3. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

5.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.



C.M.A.No.1180 of 2020

WEB COPY

6.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.6,500/- for loss of income, Rs.5,000/- for transport expenses, Rs.3,000/- for extra nourishment, Rs.500/- for damages for clothes and articles, Rs.61,600/- for medical expenses, Rs.40,000/- for pain and sufferings, Rs.75,000/- for disability, Rs.3,51,000/- for loss of earning power and arrived at a total compensation of Rs.5,42,600/- with interest at the rate of 7.5%p.a. from the date of petition till the date of deposit.

7.The Tribunal ought to have followed the decision of the Hon'ble Apex Court reported in (2011) 1 SCC 343 [*Raj Kumar Vs. Ajay Kumar and Ors.*], however, without following the guidelines issued in the said decision, the Tribunal mechanically passed the award by applying multiplier method, which is not sustainable one.

8.The Tribunal has awarded compensation under the heads loss of income, disability and loss of earning power. Such award is impermissible. Hence, the amount awarded under the heads loss of income and loss of earning power are deleted. This Court is of the opinion that some amount has to be awarded for loss of income during



C.M.A.No.1180 of 2020

the treatment period. Accordingly, this Court awards a sum of Rs.20,000/- for loss of income during the treatment period.

9.The Doctor has assessed the disability of the injured claimant as 32%. At the relevant point of time Rs.5,000/- per percentage of disability was awarded. Hence, amount awarded for disability works out to Rs.1,60,000/- [32% X Rs.5,000/- = Rs.1,60,000/-].

10.The amount awarded under the heads transport expenses, extra nourishment, damages for clothes and articles, pain and sufferings, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for transport expenses is enhanced to Rs.10,000/- from Rs.5,000/-, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.3,000/-, the amount awarded for damages for clothes and articles is enhanced to Rs.1,000/- from Rs.500/-, the amount awarded for pain and sufferings is enhanced to Rs.75,000/- from Rs.40,000/-. The amount awarded under the head Medical expenses in the opinion of this Court is just and reasonable and the same is confirmed.



C.M.A.No.1180 of 2020

WEB COPY

11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs. 6,500/-	---
2.	Extra nourishment	Rs. 3,000/-	Rs. 20,000/-
3.	Transport expenses	Rs. 5,000/-	Rs. 10,000/-
4.	Damages for clothes and articles	Rs. 500/-	Rs. 1,000/-
5.	Pain and sufferings	Rs. 40,000/-	Rs. 75,000/-
6.	Medical expenses	Rs. 61,600/-	Rs. 61,600/-
7.	Disability	Rs. 75,000/-	Rs.1,60,000/-
8.	Loss of income during treatment period	---	Rs. 20,000/-
9.	Loss of earning power	Rs.3,51,000/-	---
	Total	Rs.5,42,600/-	Rs.3,47,600/-

12. The first respondent claimant is entitled to total compensation of Rs.3,47,600/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 24.07.2017 passed by the Motor Accidents Claims Tribunal, Special Subordinate Court, Erode, in M.C.O.P.No.339 of 2015, is modified to the above extent.



C.M.A.No.1180 of 2020

WEB COPY

14.The appellant Insurance Company is directed to deposit the modified award amount before the Tribunal less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. The appellant is permitted to withdraw the excess amount, if any, already deposited by them.

15.On such deposit, the first respondent/ claimant is permitted to withdraw the modified award amount with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

16.The civil miscellaneous appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

12.11.2024

pri

Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Special Subordinate Court, Erode.

7/8



WEB COPY



C.M.A.No.1180 of 2020

M.DHANDAPANI,J.
pri

C.M.A.No.1180 of 2020
And
C.M.P.No.7374 of 2020

12.11.2024