



C.M.A.(MD) No.280 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.280 of 2013

and

M.P.(MD)Nos.1 & 2 of 2013

National Insurance Co. Ltd.,
No.33, Promenade Road,
Contonment,
Trichy.

... Appellant

Vs.

1.Ilahi John,
2.R.M.Meyyammal,
3.Ramya,
4.Saraswathi,
5.Swaminathan,
6.Oriental Insurance Co. Ltd.,
73-B1, Salai Road,
Lakshmi Complex,
Thillai Nagar, Trichy – 18.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 06.10.2012 passed in M.C.O.P.No.2063 of 2005 on the file of the Motor Accidents Claims Tribunal (Sub Court), Trichy.

For Appellant
For Respondents
for R1

: Mr.D.Sivaraman
: Mr.N.Sudhagar Nagaraj



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for R3 to R5 : Mr.M.Subash Babu
for R6 : Mr.C.Jawahar Ravindran

J U D G M E N T

The instant appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. Since the finding on negligence and liability are not under challenge, the facts leading to the filing of the claim petition may not be necessary for deciding the issue involved in this appeal.

3. The learned counsel for the appellant/Insurance Company submitted that the compensation awarded by the Tribunal is excessive. Inasmuch as in the absence of the proof of functional disability, the Tribunal had adopted the multiplier method, which is erroneous and hence, the compensation has to be reduced.

4. The learned counsel for the claimant/first respondent, per contra, submitted that the Tribunal had adopted a very meagre notional income of Rs.4,500/- p.m. and the compensation awarded by adopting the multiplier method is just and reasonable and that in any case, the compensation



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awarded under other conventional heads is meagre and hence, prayed for dismissal of the appeal.

5. The only point for consideration in the instant appeal is '*whether the compensation awarded by the Tribunal is just and reasonable?*'

6. The claimant/first respondent had established that he had suffered fractures in the 5 to 8th ribs by examining the Doctor-P.W.7. He had also established that he had suffered 56% of disability. According to the claimant, he was working as a partner in a firm and doing trading of plastic products. Considering the nature of the job, the injuries suffered by the claimant and the other evidence on record, it is seen that there is nothing to suggest that the claimant had suffered functional disability. Therefore, this Court is of the view that the computation of 'loss of income' by the Tribunal by adopting the multiplier method cannot be sustained. The disability suffered by the claimant, admittedly, is 56%. Hence, this Court is of the view that considering the year of accident, Rs. 2,000/- can be awarded for the percentage of disability.

7. The Tribunal had awarded Rs.15,000/- under the head 'Pain and



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sufferings', which can be enhanced to Rs.30,000/-. The claimant can be awarded Rs.30,000/- under the head 'Loss of amenities', considering the facts and circumstances of the case. The claimant had also established that he had suffered 'Loss of income' for a period of three months. Considering the avocation and the year of accident, this Court is of the view that the notional income can be fixed at Rs.7,500/- p.m. Hence, the compensation under the head 'Loss of income for three months' can be awarded at Rs.22,500/-. The award under the head 'Attendant charges' can be enhanced to Rs.5,000/-. The nature of the injuries and the treatment given to the claimant would suggest that future medical expenses cannot be ruled out. Though there is no evidence to prove the exact future medical expenses, this Court is of the view that a sum of Rs.20,000/- can be awarded under the said head.

8. Considering the nature of the injuries and the treatment taken by the claimant and the claimant, admittedly, produced the medical bills to the tune of Rs.1,49,640/-, the Tribunal had awarded the same and there is no infirmity in the said award. Thus, the compensation awarded by the Tribunal is modified as follows:



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Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	Loss of income	Rs. 4,05,000/-	Rs. 1,12,000/-	Reduced
2	Pain and sufferings	Rs. 15,000/-	Rs. 30,000/-	Enhanced
3	Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
4	Attendant charges	Rs. 3,000/-	Rs. 5,000/-	Enhanced
5	Transportation charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6	Loss of cloth	Rs. 1,000/-	Rs. 1,000/-	Confirmed
7	Medical expenses	Rs. 1,49,640/-	Rs. 1,49,640/-	Confirmed
8	Loss of amenities	---	Rs. 30,000/-	Granted
9	Loss of income for three months	---	Rs.22,500/-	Granted
10	Future medical expenses	---	Rs.20,000/-	Granted
Total		Rs. 5,88,640/-	Rs.3,85,140/-	Reduced by Rs.2,03,500/-

9. The appellant/Insurance Company shall deposit the compensation amount of Rs.3,85,140/- (Rupees Three Lakhs Eighty Five Thousand One Hundred and Forty only), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

10. On such deposit, the first respondent/claimant is entitled to



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withdraw the same together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

11. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:
1.Motor Accidents Claims Tribunal (Sub Court),
Trichy.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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