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C.M.A(MD)No.354 of2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.354 of 2013

Branch Manager,
New India Assurance Company Limited,
Palani.

... Appellant

Vs.

1.M.Veluchamy
2.P.Manoharan

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award dated 14.02.2012 and made in M.C.O.P.No. 434 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Palani.

For Appellant : Mr.N.Dilip Kumar
For R1 : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2. It is a case of injury. The learned Counsel appearing for the Insurance Company submitted that the vehicle is not involved in the accident at all. To substantiate the same, the learned Counsel appearing for the Insurance Company

<https://www.mbc.m.gov.in/judis1> relied on the accident report wherein it is stated that there is no damage for the



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vehicle. The accident report does not clearly state whether there is no damage to the two-wheeler or the four-wheeler. However, the said contention of the appellant is vehemently opposed by the respondents stating that the vehicle involved in the accident is an Ambassador car and the car hit the two-wheeler from behind. This Court is of the considered opinion that the said plea was not properly raised before the Tribunal and there is no evidence to substantiate the plea of the appellant. However, the fact remains that the injured was amputated and he sustained 70% disability. Therefore, the said contention of the appellant is rejected.

3. The next contention of the appellant is that the salary of the injured was fixed as Rs.19,000/-. Even according to the injured, he was receiving salary of Rs. 7,500/- per month as Headmaster and would earn Rs.5,000/- through tuition, totally Rs.12,500/- per month. Therefore, Rs.19,000/- per month fixed by the Tribunal is without any basis. After hearing the arguments this Court is of the considered opinion that there is no evidence for the income through tuition and hence the said amount is declined.

4. As far as the pension for the injured is concerned, this Court is fixing the income as Rs.12,500/- per month. Since it is a case of injury, deduction of 1/3rd of income towards personal expenses as carried out by the Tribunal is erroneous.



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Hence, the Court is not deducting 1/3rd of the income towards personal expenses.

The compensation granted under the other heads are confirmed.

5.The modified award amount granted by this Court is as under:

Monthly income of the injured	Rs.12,500/-
Annual income	Rs.1,50,000/-
Applying multiplier '5'	Rs.7,50,000/-
For 70% permanent disability (70% of Rs.7,50,000/-)	Rs.5,25,000/-

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	70% Permanent Disability and Loss of Income	Rs.5,32,014/-	Rs.5,25,000/-	Reduced
2.	For Pain and Sufferings	Rs.50,000/-	Rs.50,000/-	Confirmed
3.	Transport Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
4.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
5.	Medical Bills	Rs.1,84,000/-	Rs.1,84,000/-	Confirmed
	Total	Rs.7,86,014/-	Rs.7,79,000/-	Reduced

Thus, the total compensation granted by the Tribunal to the tune of Rs.7,86,014/- is reduced to Rs.7,79,000/- by this Court.

6.The appellant Insurance Company is directed to deposit Rs.7,79,000/- (Rupees Seven Lakh Seventy Nine Thousand only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the



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date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The Insurance Company shall withdraw the excess amount, if any.

7. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

25.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.Motor Accident Claims Tribunal,
Sub- Court, Palani.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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