



C.M.A.(MD).No.508 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.508 of 2017

and

C.M.P(MD) No.5456 of 2017

The Oriental Insurance Company Limited,
Thiruvarur,
Branch Office,
Trichy -1.

... Appellant/2nd Respondent

-vs-

1.P.Muthukumar

... 1st Respondent/Petitioner

2.Uthirapathi

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree passed in M.C.O.P.No.89 of 2013, dated 15.04.2016 on the file of the Motor Accident Claims Tribunal cum III Additional Sub Court, Thiruchirapalli.

For Appellant : Mr.C.Jawahar Ravindran

For R1 : Mr.M.Karunanithi

For R2 : No appearance



C.M.A.(MD).No.508 of 2017

WEB COPY

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company challenging the award passed by the Motor Accident Claims Tribunal cum III Additional Sub Court, Thiruchirapalli, in M.C.O.P.No.89 of 2013 primarily on the ground of quantum.

2. According to the injured claimant, the accident has taken place on 24.10.2011 and he had sustained grievous injuries. The claimant is a driver by profession and he is claiming compensation of a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) towards injuries sustained by him.

3. The Insurance Company had filed a counter, questioning the liability and quantum. The Tribunal, after considering the submissions on either side, had arrived at a finding that the driver of the offending vehicle, which is insured with the appellant/Insurance Company, is responsible for the accident and had proceeded to award compensation of Rs.15,82,542/- (Rupees Fifteen Lakhs Eighty Two Thousand Five Hundred and Forty Two only). Challenging the quantum portion of the award, the present appeal has been filed.



C.M.A.(MD).No.508 of 2017

WEB COPY

4. According to the learned counsel appearing for the appellant, the Tribunal has awarded a sum of Rs.2,04,000/- towards loss of future income, calculating his notional income at Rs.4,000/-. Thereafter, the Tribunal has proceeded to award a further sum of Rs.1,53,000/- towards permanent disability, taking into consideration the disability of 51% and awarding a sum of Rs.3,000/- per percentage. Therefore, according to the learned counsel appearing for the appellant, the claimant cannot have a double advantage of getting an award both under the head of loss of future income as well as under the head of permanent disability. Hence, he prayed for allowing this appeal to the extent as stated above.

5. Per contra, the learned counsel appearing for the first respondent had contended that though the award has been granted under the head of loss of future income, the permanent disability would cause inconvenience to the first respondent and he would incur loss of amenities also. Therefore, awarding additional sum of Rs.1,53,000/- may not be disturbed.

6. I have carefully considered the submissions made by the learned counsel on either side.



C.M.A.(MD).No.508 of 2017

WEB COPY

7. A perusal of Ex. P-18, driving license of the claimant shows that he is a driver by profession. A perusal of Ex.P-12 Certificate issued by the Government of Tamil Nadu, shows that he had incurred 54% permanent disability. Therefore, it is clear that the petitioner would not be in a position to work as a driver hereafter. Therefore, there had been 100% functional disability. The Tribunal was right in awarding a sum of Rs.2,04,000/- towards loss of future income, relying upon the multiplier method. However, the Tribunal ought not to have awarded additional sum of Rs.1,53,000/- under the head of permanent disability. In fact, the Tribunal has awarded attendant charges, pain and suffering, extra nourishment, transport charges, loss of marital prospectus mental agony, loss of estate, future medical expenses and past medical expenses. Therefore, in these circumstances, the Tribunal was not right in awarding additional sum of Rs.1,53,000/- under the head of permanent disability.

8. In view of the above said deliberations, the award of the Tribunal is reduced from Rs.15,82,542 /- (Rupees Fifteen Lakhs Eighty Two Thousand Five Hundred and Forty Two only) to Rs.14,29,542/- (Rupees Fourteen Lakhs Twenty Nine Thousand Five Hundred and Forty Two only), which shall carry interest at the rate of 7.5% per annum from the date of filing of the claim



C.M.A.(MD).No.508 of 2017

petition. In other respects, the award of the Tribunal is confirmed. Excess amount, if any, deposited by the Insurance Company, shall be refunded to them along with accrued interest.

9. Accordingly, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

17.04.2024
2/2

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

To

1. The Motor Accident Claims Tribunal
cum III Additional Sub Court,
Thiruchirapalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.508 of 2017

R.VIJAYAKUMAR,J.

ebsi

C.M.A.(MD)No.508 of 2017

17.04.2024
2/2