



C.M.A.(MD)No.1157 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1157 of 2024

and

C.M.P.(MD) No.12143 of 2024

United India Insurance Company,
Through its Branch Manager,
No.93 – B1, Anna Nagar,
Trichy Main Road,
Palladam,
Coimbatore 641 664

... Appellant

VS.

1. Subramanian
2. Sivaperumal

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, to set aside the award dated 24.04.2023 passed in M.C.O.P.No.798 of 2017 on the file of the Motor Accidents Claims Tribunal / Special Subordinate Court, Tirunelveli.



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For appellant : Mr.A.Shajahan
For Respondents : Mr.T.Lenin Kumar for R1

J U D G M E N T

Being aggrieved by the award dated 24.04.2023 passed in M.C.O.P.No.798 of 2017 by the Motor Accident Claims Tribunal / Special Sub Court, Thirunelveli, the insurance company / 2nd respondent has preferred this appeal as regards the quantum.

2. Heard Mr.A.Shajahan, learned counsel for the appellant and Mr.T.Lenin Kumar, the learned counsel for the first respondent. Perused the relevant records.

3. Upon consideration, the Tribunal adopted multiplier method for computing loss of future income and awarded a sum of Rs.6,08,400/-. The Tribunal ordered compensation under various components which are tabulated hereunder:



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Sl.No.	Description	Amount awarded by the Tribunal
1.	For Loss of future earning power	Rs.6,08,400/-
2.	For Medical Expenses	Rs.1,52,483/-
3.	For Loss of convenience	Rs. 50,000/-
4.	For Pain and Suffering	Rs. 50,000/-
5.	For Transport Expenses	Rs. 10,000/-
6.	For Attendant Charges	Rs. 10,000/-
7.	For Extra Nourishment	Rs. 10,000/-
Total		Rs.8,90,883/-

4. The Tribunal has adopted the multiplier method for computing loss of future income and the learned counsel for the appellant would vehemently argue that the disability suffered by the claimant does not affect his earning capacity and the invocation of the multiplier method by the Tribunal is incorrect.

5. It has come on record through the evidence of P.W.1-Subramanian (claimant) that on account of the accident that occurred on 01.04.2017, he suffered comminuted segmental fracture of tibia and right femur, right metacarpal bone dislocation and crush injury over the right great toe. It is inferable from Ex.P2 - discharge summary issued by Saravana Multispeciality Hospital, Madurai that the petitioner was admitted on



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01.04.2017 and discharged on 07.04.2017. He underwent surgery on 02.04.2017, where open reduction with internal fixation was done on right tibia and right femur. Again on 08.04.2017, he got admitted in the same hospital for the suture removal of right tibia and right femur, and he was discharged on 16.04.2017 (Ex.P3-discharge summary). Thereafter, he was hospitalized on 12.04.2018 for two days for screw removal of right tibia and femur.

6. The claimant was said to be a coolie and due to the fractures suffered, it is his evidence that he is unable to attend to his daily work as well as coolie work as he did before the accident. The District Medical Board assessed his disability at 52%. The Tribunal has adopted multiplier method to compute the loss of future income.

7. Under what circumstances, the multiplier method in injury cases can be invoked has been clearly give by the Hon'ble Supreme Court in Raj Kumar vs Ajay Kumar reported in [(2011) 1 SCC 343], the principles have also been summarised, which are given hereunder:

“(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.



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(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

8. As regards the effects and impact of disability are concerned, the claimant has suffered segmental fracture of right tibia (bigger bone) and toe bone. Besides right metacarpal bone (right finger) dislocation, he suffered crush injury of right great toe. When a person is said to be a coolie, then the segmental fracture suffered above the knee and below the knee, definitely, he would not be able to even walk, stand and sit properly. Even for attending



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his day-to-day works, he would definitely have difficulties. The Tribunal has fixed at 52% as functional disability, cannot be found fault with. The age of the claimant is 48 years and in the year 2017, his monthly income is fixed at Rs.7500/-. This Court does not find any good reason to disturb the computation of loss of future income of the claimant herein.

9. The next grievance of the learned counsel for the appellant is that for loss of amenities and for pain and suffering, an amount of Rs.50,000/- was granted under each head which are on the higher side. Pain and suffering and loss of amenities are definitely different heads. They come under the category of non-pecuniary loss. As mentioned supra, the claimant who was aged about 48 years working as a coolie had suffered segmental fracture of right thigh bone and right tibia. When a person suffers fracture of the upper bone and lower bone in the same leg, then it will be extremely difficult for him in day-to-day life and during work. In consideration of the said injuries, the Tribunal has granted Rs.50,000/- under the abovesaid heads cannot be said to be on the higher side. As regards other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and it needs no interference.

10. In the result, this Civil Miscellaneous Appeal stands dismissed and



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the Judgment and Decree dated 24.04.2023 passed in M.C.O.P.No.798 of 2017 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Thirunelveli is confirmed. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition stands closed.

03.12.2024

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

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To

1. The Special Sub Court, Tirunelveli
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No. 1157 of 2024

R.KALAIMATHI,J

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