



C.M.A(MD)No.587 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.03.2024

Delivered on : 28.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.587 of 2019

M/s.Reliance General Insurance Company Limited,
through its Branch Manager,
No.10/4/4, Thaha Plaza,
2nd Floor, South Bye Pass Road,
Vannarpettai, Tirunelveli. : Appellant/2nd Respondent

Vs.

1.Sekar : Respondent/Petitioner
2.Ramachandran (died) : Respondent /1st Respondent

(memo dated 02.02.2024 in USR.No.4154, is recorded to the effect that R2 died and since he was set ex-parte before the Tribunal, there is no need to take steps to bring his LRs on record, vide Court order, dated 16.02.2004 in C.M.A.(MD)No.587 of 2019)

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 30.10.2015 passed in M.C.O.P.No.811 of 2014 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Tirunelveli.



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For Appellant : Mr.V.Sakthivel

For Respondents : No Appearance, for R1.

: R2 died steps not necessary.

ORDER

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.811 of 2014, dated 30.10.2015 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Tirunelveli.

2. The appellant/insurer, who was made liable to pay compensation of Rs.10,40,820/- with interest and cost to the first respondent/claimant for the disability suffered by him, consequent to an accident occurred on 25.05.2014, challenging the quantum of compensation awarded at by the Tribunal.

3. It is pertinent to note that though the appellant/insurer has challenged the liability mulcted on it, in the appeal grounds, the learned counsel for the appellant would submit that they are only challenging the quantum of compensation awarded at by the Tribunal.



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4. The learned counsel for the appellant would submit that though the claimant has alleged that he was working as Office Assistant in CSI Diocese and was getting Rs.12,000/- per month, he has not produced any evidence; that the Tribunal without any iota of evidence has fixed the monthly income of the claimant at Rs.4,500/-; that the Tribunal has also erred in adding 30% of the income towards future prospects, which is highly unreasonable; that the claimant has neither pleaded nor deposed that he is going to fix the artificial limb in future, but the Tribunal has awarded Rs.1,00,000/- towards future medical expenses, which is unreasonable and also on the higher side; that the Tribunal without any evidence has awarded Rs.1,50,000/- for the loss of future convenience, which is also on higher side; that the amounts awarded under the other heads are also very high and that therefore, the appellant was constrained to file the present appeal, questioning the quantum of compensation.

5. During the pendency of the appeal, the second respondent owner of the vehicle was reported dead and the appellant has filed a memo stating that since the appeal is directed against the quantum of



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compensation awarded at by the Tribunal and the second respondent had remained ex-parte before the Tribunal, taking steps for the deceased second respondent is not necessary and the said memo came to be recorded.

6. It is evident from the records that the claimant due to the accident has suffered grievous injuries and more importantly portion of his right leg ie., from the centre of thigh portion got amputated. Though the claimant has alleged that he was working as an Assistant in CSI Diocese and was earning Rs.12,000/- per month, he has not produced any iota of evidence to substantiate the same and hence, the Tribunal has only fixed the monthly income at Rs.4,500/- and the same cannot said to be excessive.

7. The Tribunal, taking note of the legal position, has added 30% of the income towards future prospects and thereby arrived the monthly income at Rs.5,850/-. Since the claimant was working as an Assistant and got his right leg amputated, the Tribunal has rightly applied the multiplier formula for computing the compensation. Though the Medical Officer has assessed the permanent disability at 84%, the Tribunal taking note of the



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Workmen Compensation Act has fixed the liability at 70%. The learned trial Judge, taking note of the evidence available on records, has rightly fixed the age of the deceased at 49 years at the time of accident.

8. Considering the above, the Tribunal has rightly arrived at Rs.6,38,820/- as compensation for the permanent disability. The Tribunal has awarded Rs.27,000/- for loss of income; Rs.25,000/- towards transportation, attendant charges and extra nourishment; Rs.1,00,000/- for pain and sufferings; Rs.1,50,000/- for loss of future convenience and Rs.1,00,000/- for fixing artificial limb.

9. The learned counsel for the appellant would submit that the amounts awarded under the head of loss of future convenience at Rs.1,50,000/- and fixing of artificial limb at Rs.1,00,000/- are very high and are unreasonable.

10. Considering the nature of injuries suffered and the consequent disability sustained and the period of treatment, the Tribunal has rightly awarded Rs.1,00,000/- towards pain and sufferings, but the amount



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awarded Rs.25,000/- towards transportation, attendant charges and extra nourishment is on lower side. The Tribunal has granted Rs.1,50,000/- for loss of future inconvenience, but as rightly contended by the learned counsel for the appellant, is on higher side. Though the claimant has not alleged that he is going to fix artificial limb, since the claimant has lost his right leg, granting of Rs.1,00,000/- for fixing artificial limb cannot be found fault with.

11. Considering the above and taking note of the lesser amount awarded for some heads and higher amount awarded for the loss of future convenience, this Court is of the view that total compensation awarded at Rs.10,40,820/- is reasonable and the same cannot said to be excessive.

12. The learned counsel for the appellant would submit that the Tribunal, without any basis and without assigning any reason, has awarded at 9% per annum. Considering the above, this Court is inclined to grant interest at 7.5% per annum and there is nothing to interfere with the quantum of compensation awarded at by the Tribunal.



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13. In the result, the Civil Miscellaneous Appeal is partly allowed and the claimant is entitled to get compensation of Rs.10,40,820/- with interest at 7.5% per annum from the date of petition, excluding the period of default, if any. The appellant/insurer is directed to deposit the entire amount with interest and cost before the Tribunal within a period of four weeks from the date of receipt of copy of this judgment, if not deposited earlier and on such deposit, the claimant is permitted to withdraw the entire amount with interest and costs, on due application before the Tribunal. Parties are directed to bear their own costs.

28.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The Motor Accident Claims Tribunal/
Special Subordinate Judge, Tirunelveli.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

DAS

Pre-delivery order made in
C.M.A.(MD)No.587 of 2019

Dated : 28.03.2024