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C.M.A.No.3075 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.3075 of 2021
and C.M.P.No.17441 of 2021

Cholamandalam MS General
Insurance Co. Ltd.,
Rep. by its Manager
No.9, 1st Floor, Rajaji Road
State Bank of Trivancore Upstairs
Peramanur
Salem – 636 007.

... Appellant

vs.

1.Nadraj @ Natraj

2.P.Suresh

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.03.2020 in MCOP.No.767 of 2018 on the file of the Motor Accident Claims Tribunal (Special Sub Judge) at Krishnagiri.

For Appellant : M/s.R.Sree Vidhya

For Respondents : No Appearance

J U D G M E N T

This is the Appeal filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal granting a



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compensation of Rs.8,31,484/- in favour of the injured claimant/1st respondent herein.

2. Heard the argument of learned counsel appearing for the appellant.

Though the respondents are served and their names appear in the cause-list, there is no representation for them.

3. According to the 1st respondent/claimant, when he was proceeding as pillion rider in Pulsar Bike, a Mahindra Pick up Vehicle owned by the 2nd respondent herein insured with the Appellant/Insurance Company came from the left side in a rash and negligent manner and hit the bike in which the claimant was travelling. Due to the accident, the claimant suffered a fracture in his right knee. It is claimed by the claimant that he is a barber by profession and was earning Rs.20,000/- per month at the time of accident. It is also claimed that due to the injuries suffered by the accident, the claimant is unable to do his work properly. Hence, he filed a claim petition seeking compensation of Rs.30,00,000/-.



4. The Insurance Company resisted the claim petition by denying all the averments contained in the claim petition.

5. Before the Tribunal, on the side of the 1st respondent/claimant, he was examined as PW.1 and on the side of the appellant herein/Insurance Company, three persons were examined as RW.1 to RW.3.

6. Based on the evidence available on record, the Tribunal came to the conclusion that the 1st respondent/claimant was entitled to Rs.8,31,484/- as compensation. Aggrieved by the quantum of compensation fixed by the Tribunal, the appellant/insurance company has come before this Court by way of filing this civil miscellaneous appeal

7. The learned counsel appearing for the Appellant/Insurance Company advanced arguments only on the question of quantum and there is no dispute on the question of negligence and liability. The learned counsel appearing for the appellant/Insurance Company would submit that though claimant suffered a fracture on his right knee, Tribunal which had an opportunity to observe him, while he was examined as PW.1, recorded that



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he had no difficulty in standing and he had difficulty in walking. Having regard to the nature of the avocation claimed by the 1st respondent/claimant, the Tribunal ought not have applied multiplier method. According to her, the Tribunal ought have awarded compensation under the head of Permanent Disability only on percentage basis.

8. The Ex.C1 is the Disability Certificate issued by the Medical Board. A perusal of the same would suggest that the 1st respondent/claimant suffered partial permanent disability at 40%. He suffered a fracture in the Right Knee and he was examined as PW.1. Even in the order, the Tribunal observed that PW.1 had no difficulty in standing and he had some difficulty in walking. It is claimed by the 1st respondent/claimant that he is employed as a barber. The work nature of barber requires standing, when Tribunal observed that the claimant had no difficulty in standing, this Court comes to the conclusion that nature of injury/disability suffered by the victim will not interfere with his avocation. Therefore, there is no need to apply multiplier method.



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9. In view of the same, this Court is constrained to calculate the amount payable to the victim by applying the percentage basis. As per Ex.C1-Disability Certificate, the victim suffered 40% disability. The accident had taken place in the year 2016. Therefore, the victim is entitled to Rs.6,000/- per percentage of disability ($\text{Rs.6,000} \times 40 = 2,40,000/-$). The 1st respondent/claimant is entitled to Rs.2,40,000/- under the head partial permanent disability instead of Rs.6,42,600/- as ordered by the Tribunal.

10. As far as the amount awarded under various other heads are concerned, the same appears to be reasonable and requires no interference. Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Partial loss of earnings	Rs.6,42,600/-	Rs.2,40,000/-
2.	Transportation, Nutrition Charges	Rs.25,000/-	Rs.25,000/-
3.	Pain and Sufferings	Rs.32,000/-	Rs.32,000/-
4.	Loss of amenities & enjoyment of life	Rs.32,000/-	Rs.32,000/-
5.	Damages to cloth and articles	Rs.1,000/-	Rs.1,000/-
6.	Medical Bills	Rs.98,884/-	Rs.98,884/-
	Total	Rs.8,31,484/-	Rs.4,28,884/-



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11. It is stated by the learned counsel appearing for the appellant/insurance company that the insurance company already deposited the entire award amount. Therefore, in view of the reduction of the compensation amount, the appellant/insurance company is entitled to withdraw the balance award amount in deposit with proportionate accrued interest. It is also stated that Tribunal permitted the 2nd respondent therein/Insurance Company to pay the award amount to the 1st respondent herein/Claimant and recover the same from the 1st respondent therein/2nd respondent herein. The said finding is not interfered with.

12. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

05.02.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

1.The Motor Accident Claims Tribunal
(Special Sub Judge), Krishnagiri.

2.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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