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CMA.No.665 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.665 of 2022 and
CMP.No.4750 of 2022

Reliance General Insurance Company Limited,
rep. by its Manager, Omalur Main Road,
Sree Lakshmi Complex, first floor,
Bharathi Street, Swarnapuri, Salem 636 004.

... Appellant

Vs.

1. Palraj
2. V.Vijay Kumar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the decree and judgment dated 23.01.2020 made in MCOP No.600 of 2018, dated 23.01.2020 on the file of the Special Subordinate, Motor Accident Claims Tribunal, Krishnagiri.

For appellant : Mr.N.Vijayaragavan
for Mr.E.Rajadurai

For Respondents : Mr.M.Mohemed Afridi for first respondent
No appearance for second respondent



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JUDGMENT

This appeal has been filed by the insurance company, challenging the quantum of compensation awarded by the Tribunal.

2. It is not in dispute that the first respondent/claimant suffered crush injury in a road accident that had taken place on 26.06.2017. It is also not in dispute that the right leg of the claimant was amputated below knee level, due to the injury suffered by him in the road accident. Therefore, the claimant filed a claim petition seeking compensation of Rs.25,00,000/-. Based on the evidence available on records, the Tribunal awarded a sum of Rs.19,77,920/-. Aggrieved by the quantum of compensation, the insurance company has filed the present appeal.

3. The second respondent/owner of the vehicle remained exparte before the Tribunal. Though notice has been served on the second respondent and his name appears in the cause list, there is no representation on behalf of the second respondent.



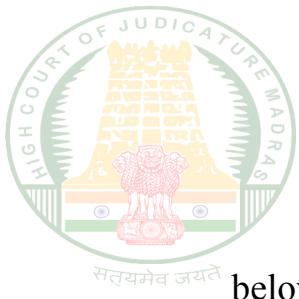
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4. Heard the learned counsel for the appellant and the first respondent.

5. The learned counsel for the appellant would submit that the Tribunal having applied multiplier method and fixed compensation under the head loss of earning capacity, ought not have awarded further compensation of Rs.2,25,000/- towards disability by adopting percentage basis. According the appellant, awarding compensation towards loss of earning capacity and disability by adopting both methods is untenable in law. He further submits that the Tribunal having awarded compensation by adopting multiplier method under the head loss of earning capacity, ought not have awarded a sum of Rs.60,000/- towards social amenities.

6. The learned counsel for the first respondent/ claimant would submit that the accident had taken place in the year 2017 and the notional income of Rs.8,500/- fixed by the Tribunal is very much on lower side. He further submits that the claimant lost his right leg

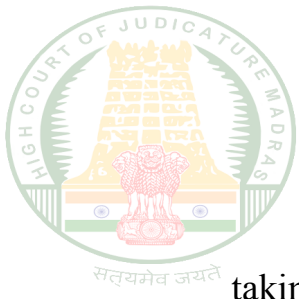


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below the knee level and therefore, he is not in a position to do any manual work as before and hence, the Tribunal ought not have reduced the disability percentage from 75% to 60%, at the time of applying multiplier method.

7. Ex.C1 is the disability certificate issued by the Medical Board, wherein, disability suffered by the claimant was assessed at 75%. However, the Tribunal had reduced it to 60% functional disability. It is seen from the pleading and evidence of PW1 that the claimant was engaged as a polisher in a granite unit. Therefore, it is clear that the claimant was doing manual job at the time of accident and the amputation of his right leg will certainly interfere with the manual job. Therefore, the Tribunal was justified in adopting multiplier method. However, the Tribunal ought not have reduced the disability percentage assessed by the experts, namely Medical Board to 60%, especially when the claimant is engaged in a manual work. Further taking into consideration the year of accident, the fixation of Rs.8,500/- as notional income by the Tribunal is very much on lower side. If the notional income of the claimant is fixed at Rs.15,000/- per month, by



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taking into consideration the year of accident and cost of living and the disability fixed by the Medical Board is taken as it is, the compensation towards loss of earning capacity alone will exceed the total compensation Rs.19,77,920/- awarded by the Tribunal. In such circumstances, even though the point raised by the appellant that the Tribunal was not correct in granting further compensation of Rs.2,25,000/- by adopting percentage basis towards disability is justified, this court is not inclined to interfere with the quantum of compensation awarded by the Tribunal, taking into consideration the lesser amount fixed by the Tribunal as notional income of the claimant. Likewise, the Tribunal was also not justified in reducing disability to 60% as functional disability from the disability of 75%, as assessed by the expert. Therefore, this court feels that the amount awarded by Tribunal as compensation to the claimant appears very much on lower side, however, in the absence of any cross appeal by the first respondent/claimant, this court is not inclined to enhance the quantum of compensation awarded by the Tribunal, taking into consideration the facts and circumstances of the case.



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8. Accordingly, this civil miscellaneous appeal is dismissed.

There shall be no order as to costs. Connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Krishnagiri.
- 2 . The Section Officer,
V.R.Section, Madras High Court,
Chennai- 104.



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S.SOUNTHAR, J.

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