



CMA Nos.1997 & 2197 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1997 of 2023

and

CMA.No.2197 of 2023

C.M.A.No.1997 of 2023

Karthigaisamy

... Appellant

Vs.

1.Balamurugan
S/o.Vellaiyan

2.ICICI Lombard General Insurance Co. Ltd.,
Barle Building, 2nd floor,
Byepass Road,
Madurai - 625 016.

... Respondents

C.M.A.No.2197 of 2023

ICICI Lombard General Insurance Co. Ltd.,
Barle Building, 2nd floor,
Byepass Road,
Madurai - 625 016.

... Appellant

Vs.

1.Karthigaisamy

2.Balamurugan
S/o.Vellaiyan

... Respondents



CMA Nos.1997 & 2197 of 2023

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PRAYER in CMA.No.1997 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to enhance the compensation amount awarded in judgement and decree dated 21.07.2022 made in MCOP No.13 of 2017 on the file of the Exclusive Motor Accident claims Tribunal, Thiruppur.

PRAYER in CMA.No.2197 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the decree and judgement dated 21.07.2022 made in MCOP No.13 of 2017 on the file of the Exclusive Motor Accident claims Tribunal, Tirupur.

For Appellant : Mr.K.Sudhakar

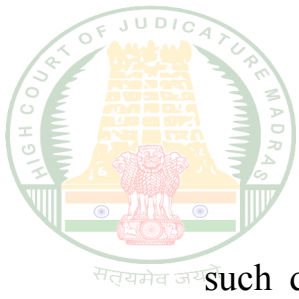
For R2 : Mr.B.Siva Kollappan
for R1 Addressee moved

JUDGMENT

These twin appeals have been filed, one seeking enhancement of compensation by the claimant and the other by the insurance company seeking to set aside the findings of the Tribunal.

2. Heard both sides.

3. The learned counsel for the appellant in CMA.No.2197 of 2023, representing the insurance company, submitted that, although a disabilities certificate (Ex.X1) was marked on the side of the claimant, it does not specifically mention the nature of the injuries. In the absence of



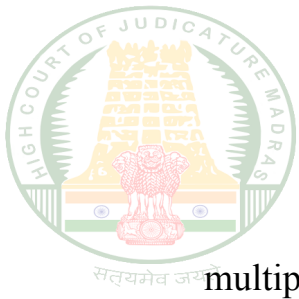
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such details, the Tribunal erroneously fixed the functional disability at 50% and applied the multiplier method, which is incorrect and liable to be set aside.

4. On the other hand, the learned counsel appearing for the claimant submitted that the claimant is a tailor by profession and had sustained grievous injuries to his right knee, rendering him unable to work as before. He pointed out that the Medical Board assessed his disability at 65%. Considering this, the Tribunal rightly fixed the functional disability at 50%, and applied the multiplier method. Therefore, he prayed for dismissal of the appeal filed by the insurance company and sought enhancement of the compensation awarded, as the income of the injured was not properly considered.

5. On considering the submissions of both sides and upon perusal of the records, it is seen that the disability certificate issued by the Medical board (Ex.X1) does not contain specific reasoning for arriving at the 65 % disability. Furthermore, the claimant does not suffer from permanent immobilization of the leg and is able to walk. Therefore, applying the



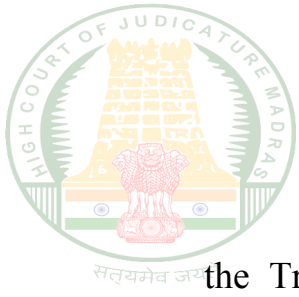
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multiplier method without proper details regarding the nature of the disability is erroneous, as rightly pointed out by the counsel for the appellant in CMA.No.2197 of 2023.

6. In light of the above, instead of applying the multiplier method, a lump sum amount based on partial disabilities at 50% is awarded, calculated at Rs.6,000/- per percentage. Thus, a total of Rs.3,00,000/- (50% x 6,000) is awarded under this head. Since the accident occurred in the year 2016, and though the claimant claimed to be working as a tailor, no documentary proof of income was produced. Hence, notional income is fixed at Rs.15,000/- per month. Considering the nature of the injury sustained by the claimant, loss of income for a period of 6 months is assessed at Rs.15,000 x 6 = 90,000/-. Accordingly, the amount awarded by the Tribunal under the head "Loss of Income" is enhanced from Rs.60,000/- to Rs.90,000/-. However, the sum of Rs.25,000/- awarded by the Tribunal towards Attender charges is found to be on the higher side and is reduced to Rs.10,000/-.

7. The following tabular column sets out the amounts awarded by



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the Tribunal and the modified amounts awarded by this Court under various heads:

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Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of income during the treatment period	60,000	90,000
2.	Disabilities 50%	9,75,000	3,00,000
3.	Transportation charges	25,000	25,000
4.	Extra nourishment	30,000	30,000
5.	Attender Charges	25,000	10,000
6.	Cloths and articles	5,000	5,000
7.	Medical expenses	17,675	17,600
8.	Pain and suffering and loss of amenities	1,50,000	1,50,000
	Total	12,87,675	6,27,600

Thus, the compensation awarded by the Tribunal is reduced from Rs.12,87,675/- to Rs.6,27,600/-, which shall carry interest at the rate of 7.5% per annum.

8. The result: (i) The Civil Miscellaneous Appeal No.1997 of 2023, filed by the claimant is dismissed. The Civil Miscellaneous Appeal



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No.2197 of 2023, filed by the insurance company is allowed.

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(ii) The compensation awarded by the Tribunal is reduced from Rs.12,87,675/- to Rs.6,27,600/-.

(iii) The insurance company / ICICI Lombard General Insurance Co. Ltd., is directed to deposit the compensation amount, i.e., Rs.6,27,600/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 13 of 2017 on the file of the Motor Accident Claims Tribunal, Tirupur, within a period of six weeks from the date of receipt or uploading of a copy of this order.

iv. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

v. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.



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Index: Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no
rri

To

1. Motor Accident Claims Tribunal, Tirupur.
2. ICICI Lombard General Insurance Co. Ltd.,
Barle Building, 2nd floor,
Byepass Road,
Madurai - 625 016.
3. The Section Officer, V.R. Section, High Court, Madras.

T.V.THAMILSELVI, J.



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