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CMA.No.576 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.576 of 2021

and

CMP.No.3375 of 2021

The Branch Manager,
Reliance General Insurance Company Ltd.,
6, Haddows Road, Chennai – 600 006.

...Appellant

Vs.

1. Senniappan

2. V.Kumar

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the decree and judgment dated 08.12.2017 passed in MCOP.No.1349 of 2014 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Tiruppur.

For Appellant : M/s.C.Bhuvanasundari

For Respondents : Mr.Ma.Pa.Thangavel, for R1
: Notice dispensed with, for R2



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JUDGMENT

Challenging the order dated 08.12.2017 passed in MCOP.No.1349 of 2014 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Tiruppur, the appellant-insurer has come up with this appeal.

2. It is the case of the 1st respondent/claimant that, on 19.06.2014 at about 20.30 hrs., when the petitioner was travelling as a pillion rider in the vehicle bearing Regn.No.TN-40-X-6336 driven by one Sivakumar and was proceeding from South to North direction in the Covai to Salem Bypass Road, near Allampalayam Pirivu, at that time, a vehicle bearing Regn.No-TN-39-BX-1554 owned and driven by the 2nd respondent insured with the appellant herein came in a rash and negligent manner and dashed against the vehicle in which the 1st respondent/claimant was travelling, due to which, the 1st respondent sustained sustained grievous injuries and got admitted in Hospital. Thereby, the 1st respondent filed a claim petition claiming a compensation of Rs.30,00,000/-. Before the tribunal, on the side of the 1st respondent/claimant, three witnesses viz., P.W.1 to P.W.3 were examined and exhibits P.1 to P.7 were marked and on the side of the appellant/insurance company, no witness was examined



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and no documents were marked. After trial, the tribunal arrived at a conclusion that the accident had happened solely due to the rash and negligent driving on the part of the 2nd respondent/owner cum driver of the appellant insured vehicle and awarded a sum of Rs.14,00,000/- towards compensation in favour of the 1st respondent payable by the appellant-insurer. Challenging the same, the appellant has come up with this appeal.

3. Learned counsel for the appellant submitted that, the major grievance of the appellant/insurance company is that, due to the above said accident, though the 1st respondent sustained only a partial permanent disability of 57%, however, the tribunal adopted multiplier method as if the disability sustained by the 1st respondent is of functional in nature and awarded a compensation of Rs.10,77,300/- under the head Disability, which cannot be acceded to, as the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions. Further, the compensation awarded under other hands are also on the higher side which requires to be reduced. Accordingly she prayed for appropriate orders.



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4. Per contra, the learned counsel appearing on behalf of the 1st respondent submitted that, at the time of accident, the 1st respondent was aged about 41 years and was working as a Powerloom worker and was earning a sum of Rs.10,000/- per month and he is the sole bread winner of his family. However, due to the injuries sustained by him in the above said accident which is of permanent in nature, the 1st respondent is unable to continue his work which he was doing before the accident and is unable to meet out the day to day needs of his family and the tribunal, after careful consideration of all the said facts passed the present impugned award by adopting multiplier method, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of the appeal.

5. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The



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only grievance of the appellant/insurer is with regard to the quantum of compensation awarded by the tribunal by adopting multiplier.

7. In this context, this Court perused the materials available on record particularly the impugned award and the Disability certificate dated 16.12.2024 issued by the Medical board, pursuant to the orders of this Court dated 03.12.2024 and 18.12.2024. Though it is claimed by the learned counsel appearing on behalf of the 1st respondent/claimant that, at the time of accident, he was aged about 41 years and was a Powerloom worker by profession and the disability sustained by the him due to the above said accident is functional in nature and that the adoption of multiplier method by the tribunal for awarding compensation under the head Disability is perfectly in order, however, the said contention of the 1st respondent/claimant cannot be accepted for the reasons that the disability sustained by the 1st respondent is of partial permanent in nature at the rate of 57% and that the extent of the disability would not really hamper the 1st respondent/claimant from discharging his work. Therefore, the adoption of multiplier method by the Tribunal for awarding



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compensation under the head Loss of earning power has to be interfered with.

8. Further, considering the fact that the accident is of the year 2014 and also considering the age and the nature of injuries sustained by the 1st respondent, this Court deems it fit to fix a sum of Rs.4,000/- per percentage of disability. Therefore, the compensation awarded under the head loss of earning power stands modified to Rs.2,28,000/- ($4,000 * 57 = 2,28,000/-$).

9. Insofar as the compensation awarded under the other heads are concerned, a sum of Rs.25,000/-, Rs.25,000/-, Rs.15,000/- and Rs.15,000/-, has been awarded under the heads Pain and suffering, Future medical expenses, Attender charge and Nutrition which are on the lower side and therefore, this Court is inclined to enhance the same to Rs.50,000/-, Rs.30,000/-, Rs.20,000/- and Rs.25,000/- respectively.



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10. Further, though, a sum of Rs.25,000/- has been awarded under the head Loss of amenities, which is not sustainable, however, considering the nature of injuries and disfigurement suffered by the claimant, this Court inclined to convert the compensation awarded under the head loss of amenities to the head 'Loss of future prospectus due to disfigurement'. Further, a sum of Rs.15,000/- has been awarded under the head Mental agony, which is not sustainable, since already compensation has been awarded under the head Pain and sufferings and accordingly, the same is set aside.

11. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	10,77,300/-	2,28,000/-
Pain and sufferings	25,000/-	50,000/-
Future medical expenses	25,000/-	30,000/-
Loss of future prospects due to disfigurement	25,000/-	25,000/-
Attender charge	15,000/-	20,000/-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Nutrition	15,000/-	25,000/-
Medical bills	1,91,280.50/-	1,91,280.50/-
Mental agony	15,000/-	-
Transport	12,000/-	12,000/-
Total Rounded off	Rs.14,00,580.50/- Rs.14,00,000/-	Rs.5,81,280.50/- Rs.5,82,000/-

12. Accordingly, this Civil Miscellaneous appeal stands allowed in part and the impugned award of the Tribunal is modified by reducing the compensation amount from **Rs.14,00,000/-** to **Rs.5,82,000/-**. The appellant / Insurance Company is directed to deposit the said amount to the credit of MCOP.No.1349 of 2014 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the 1st respondent / claimant through RTGS within a period of two (2) weeks



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thereafter. If any excess amount is deposited by the appellant/insurance company, it is at liberty to withdraw the same by way of filing necessary application. There shall be no order as to costs in this appeal. Consequently, the connected miscellaneous petition is closed.

07.01.2025
(2/2)

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The Motor Accident Claims Tribunal,
Additional Sub Court, Tiruppur.
2. The Section Officer,
VR Section, High Court of Madras.



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M.DHANDAPANI, J.

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