

# SUPREME COURT OF INDIA

M.D. Jacob

Vs.

United India Insurance Ltd.

C.A.Nos.5601-5602 of 2007

(P. Sathasivam CJI., Ranjan Gogoi and Shiva Kirti Singh JJ.)

21.01.2014

## JUDGMENT

### SHIVA KIRTI SINGH, J.

1. Heard learned counsel for the appellant and learned counsel for the respondent-Insurance Company.

2. The appellant was a victim of road accident on 27th July, 1997. On account of several serious injuries including amputation of complete left hand, severe injuries in head, dislocation of bones in hip and both knees and severe injuries in foot, the Doctor assessed his disability at 100%.

3. The appellant preferred a claim petition before the Motor Accidents Claims Tribunal at Chennai and sought compensation of Rs.26,00,000/- (rupees twenty six lacs). The Claims Tribunal allowed a claim for Rs.14,20,000/- (rupees fourteen lacs and twenty thousand only) vide judgment dated 9.8.2000 rendered in M.C.O.P. No. 3365 of 1997. The claim allowed on different heads includes:

i) Loss of income for one year as Rs.60,000/-;

ii) Special diet and transportation-Rs.50,000/-

iii) Medical expenses –Rs.50,000/-

iv) Pain and suffering – Rs.2,00,000/-

v) Permanent disability – Rs.4,00,000/-

vi) Loss of future earning – Rs.6,60,000/-

4. The Insurance Company preferred appeal before the High Court at Madras and by the order under appeal dated 13.11.2006 passed in C.M.A. Nos. 1963 of 2000 and 12 of 2001 the High Court, while maintaining the Award under the first three heads, reduced the amount of Rs.2,00,000/- for pain and suffering to Rs.1,00,000/-, Rs.4,00,000/- for permanent disability to Rs.3,00,000/- and Rs.6,60,000/- as loss of future earning to Rs.3,96,000/-. As a result of aforesaid reduction, the appellant has been held entitled only to Rs.9,56,000/- (rupees nine lacs and fifty six thousand only) in place of Rs.14,20,000/- (rupees fourteen lacs and twenty thousands only). Assailing the order under appeal on account of reduction of compensation under the three heads noted above, learned counsel for the appellant has taken us through the materials on record including the judgment of the Tribunal and the judgment of the High Court under appeal.

5. It has been shown that the Tribunal has discussed all the available materials in detail for coming to a cogent and well reasoned finding for calculating the loss of future earning on the basis of monthly income of Rs.5,000/- whereas the High Court reduced the monthly income to Rs.3,000/- without specifying any reasons for reversing the finding of the Tribunal. The Tribunal considered oral evidence of the claimant as well as documents such as Ext. P.4 and Ext. P.5 showing that the applicant had experience of working as Electrician and was employed as such. In the light of all the relevant materials the Tribunal assessed the earning capacity of the appellant as Rs.5,000/- p.m. and accordingly allowed a sum of Rs.60,000/- as loss of earning capacity for a period of one year and by adopting the multiplier of 11 allowed Rs.6,60,000/- as loss of future earning.

6. The High Court did not interfere with the multiplier and as indicated above, without good reasons treated the monthly income of the appellant to be Rs.3,000/- in place of Rs.5,000/-. Inexplicably the High court has retained loss of income for one year to be Rs.60,000/- which is possible only if the monthly income is accepted to be Rs.5,000/-. There is no reason assigned even for reducing the compensation of Rs.2,00,000/- for pain and suffering to Rs.1,00,000/- and of Rs.4,00,000/- for permanent disability to Rs.3,00,000/-.

7. Considering that the appellant had suffered 100% disability, in our view, the learned Tribunal was quite justified in allowing Rs.14,20,000/- as total compensation on the basis of monthly income of Rs.5,000/-. The judgment of the High Court under appeal is therefore set aside and the judgment and order of the Tribunal is restored. The dues payable to the appellant on account of this order should be deposited by the respondent- Insurance Company with the Tribunal within eight weeks along with interest on such amount at the rate of 9% to be paid from the date of petition i.e. 27.08.1997. The appellant shall be entitled to withdraw the said amount without any condition.

8. The appeals are allowed to the aforesaid extent. No costs.