

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

CMA No.2276 of 2006
and
C.M.P.No.9086 of 2006

The New India Assurance Co.Ltd.
No.30, Jawaharlal Nehru Street
Pondicherry. .. Appellant/3rd Respondent

Vs

1. Lakshmanan .. 1st Respondent/Claimant
2. Venkateswaran
3. M.Pannerselvam .. 2nd & 3rd Respondents/1st & 2nd Respondents.

[2nd and 3rd respondent in this
CMA are the first and second respondent
before the lower court and they were
set exparte]

Appeal filed under section 173 of Motor Vehicles Act 1988
against the judgment and decree dated 10.06.2005 passed by the
learned Principal Subordinate Judge [Motor Accident Claims
Tribunal], Villupuram in MCOP No.267 of 2001.

For Appellant : Mr.C.Ramesh Babu

For Respondents: No appearance

J U D G M E N T

The New India Assurance Company is the appellant.

2. The claimant/first respondent, who sustained grievous injuries in the accident that took place on 16.01.2001 has filed a claim petition before the Court below claiming a compensation in a sum of Rs.2,50,000/-. The Tribunal, on appreciation of oral and documentary evidence, passed an award for a sum of Rs.1,85,164/- with interest at the rate of 9% per annum from the date of petition till the date of deposit. Questioning the same, the present appeal has been filed by the Insurance Company.

3. Though notice has been served on the respondent/claimant

and his name is also printed in the cause list, none appeared.

4. Heard the learned counsel for the appellant-Insurance company.

5. The learned counsel appearing for the appellant/Insurance Company fairly states that they are mainly aggrieved of the quantum determined by the Tribunal that too by adopting the multiplier method in the case of injured, which is unsustainable in law. In such circumstances, there is no need for us to go into the finding relating to negligence.

6. As per the judgment of this Court in the case of Royal Sundaram Alliance Insurance Co Ltd., Chennai vs. R.M.Singaravadivel and others dated 24.08.2010 passed in C.M.A.No.1359 of 2007, this Court has to necessarily decide that it is against law. Further, in a case of injury, the court below ought not to have applied multiplier theory to determine the compensation amount as has been held by the Full Bench of this Court in (Cholan Roadways Corporation Limited vs. Ahmed Thambi) (2006) 4 CTC 433. Therefore, for determining the compensation amount, the court below ought to have granted a sum of Rs.1,000/- or Rs.2,000/- per percentage of disability which will be the correct method for computing the compensation amount, when there is no dispute with regard to the accident or the injuries sustained by the claimant.

7. On a perusal of the order passed by the Court below, it is seen that the claimant has suffered 40% disability. It has further held that the claimant is an agricultural labour and was earning a sum of Rs.6,000/- per month. However, he has not produced any document evidencing the same. Therefore, the court below adopted the multiplier method and fixed the loss of income at Rs.1,76,640/- for the 40% disability suffered, which is not correct. In addition to the above, the court below has also awarded compensation towards pain and suffering in a sum of Rs.5,000/-; for the injuries sustained Rs.2,000/- and towards medical expenses a sum of Rs.1,524/-, totalling to Rs.1,85,164/-.

8. Since as per the judgment of this Court [cited supra], the multiplier method should not be adopted for the injury sustained, this Court is inclined to interfere with the award passed by the Court below and accordingly, by fixing Rs.2,000/- per percentage of disability, the loss of income has to be fixed only at Rs.80,000/- instead of Rs.1,76,640/- as awarded by the Court below. The claimant has taken treatment for 15 days and according to him he has taken treatment for more than two months even after discharge from the hospital. Hence, the amount awarded by the Court below in a sum of Rs.7,000/- [pain and suffering -Rs.5,000/- and for the injuries - Rs.2,000/-] is too low and the same is increased to Rs.20,000/- taking into

consideration the long duration of hospitalization.

9. As far as medical expenses is concerned, the claimant should have spent more than Rs.1,524/- as awarded by the Court below. Hence, it is increased to Rs.10,000/-; no amount has been awarded under the head transportation and extra nourishment; hence a sum of Rs.10,000/- and Rs.5,000/- are awarded respectively.

10. In view of the above, the compensation awarded by the Court below is modified as follows:

40% permanent disability	- Rs.80,000/-
[@ Rs.2,000/- per percentage]	
Pain and suffering	- Rs.20,000/-
Medical expenses	- Rs.10,000/-
Transportation	- Rs.10,000/-
Extra nourishment	- Rs. 5,000/-

Accordingly, a sum of Rs.1,25,000/- [Rupees one lakh and twenty five thousand only] is awarded as compensation.

11. Hence, the appellant-Insurance company is directed to deposit the remaining amount as modified by this Court within a period of six weeks from the date of receipt of a copy of this order. The award will carry interest at the rate of 7.5% from the date of petition. On such deposit being made, the first respondent/claimant is entitled to withdraw the entire compensation amount along with interest on making out a proper application before the court below.

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

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vj2

To

The Principal Subordinate Judge

[Motor Accident Claims Tribunal]

Villupuram

+1 cc to Mr.C.Ramesh Babu, Advocate, sr.51715

CMA NO.2276 of 2006

vd co, kra 23.11.2015