

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No. 3746 of 2011

and

M.P. No. 1 of 2011

M/s. Royal Sundaram Alliance
Insurance Co. Ltd.,
Sundaram Towers
No.45 & 46 Whites Road
Chennai 600 014.

.... Appellant/ 2nd Respondent

Vs.

1. Mr. Anbazhagan
S/o. Kaliyaperumal
Ellaikudi, Kudumi Moolai Post
Chidambaram Taluk. Respondent No.1/ Petitioner

2. Mr. K. Murugan
S/o. Kaliyaperumal
Pillaiyar Koil Street
Meenatchi Pettai
Cuddalore Taluk. Respondent No.2/1st Respondent
(R2- Exparte in the Lower Court)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 24.06.2011 made in M.C.O.P No.417 of 2007 on the file of the Motor Accidents Claims Tribunal, First Additional Subordinate Court, Cuddalore.

For Appellant : Mr. N. Vijayaraghavan

For Respondents: Mr. R. Sreedhar for R1
R 2 - exparte

J U D G M E N T

The Insurance Company has come up with this appeal challenging the liability and quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 09.11.2006, the claimant sustained loss of two teeth and grievous injuries on his head, mouth, left ear, left knee and all over his body. Hence, he filed a Claim Petition before the Tribunal seeking a sum of Rs.3,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.1,50,800/- as compensation, under the following heads:

Heads	Amount
10% Permanent Disability	Rs. 64,800.00
Pain and Suffering	Rs. 30,000.00
Loss of income (2 months)	Rs. 6,000.00
Medical Expenses	Rs. 15,000.00
Transportation to Hospital	Rs. 10,000.00
Extra nourishment & Damages to things	Rs. 25,000.00
Total	Rs.1,50,800.00

3. Learned counsel appearing for the appellant/Insurance Company would mainly contend that the driver of the offending vehicle had no valid licence to drive the Transport vehicle and hence the owner of the vehicle is liable to pay the compensation. He further contended that the quantum of compensation awarded by the Tribunal is too excessive when compared to the injuries sustained by the claimant and in the absence of any documentary evidence for his income and other expenses incurred by him. He would further contend that the Tribunal ought not have adopted multiplier method, while the injuries are very simple and the disability is much less 10%. Hence, has come up with this Appeal.

4. On the other hand, learned counsel appearing for the respondent/claimant would submit that this is a fit case for application of multiplier method as the claimant had lost two teeth and is unable to talk, chew hard food etc. and that he was under treatment from 09.11.2006 to 14.11.2006 in Government Hospital, Cuddalore and JIPMER Hospital, Pondicherry.

5. A perusal of the records would show that the injured claimant was aged 22 years at the time of accident. It has not been proved before the Tribunal that the driver of the vehicle did not possess valid driving license, with Badge. The multiplier adopted by the Tribunal as '18' to the age of the injured claimant is correct in view of the ratio laid down by the Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.

Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal towards "loss of income". Taking note of the injuries sustained by claimant, the compensation awarded under other heads is also confirmed.

6. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Insurance Company is directed to deposit the entire award amount together with accrued interest, less the amount already deposited if any, to the credit of M.C.O.P.No.417 of 2007 on the file of the Motor Accidents Claims Tribunal, First Additional Subordinate Court, Cuddalore, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2011 is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To :

- 1.The First Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.
- 2.The Record Keeper,
VR Section,
High Court, Madras-104.

+lcc to Mr.B.Gopalan, Advocate, S.R.No.16184
+lcc to Mr.R.Sreedhar, Advocate, S.R.No.15607

C.M.A.NO.3746 of 2011
and
M.P. No. 1 of 2011

ev(CO)
srg(12/05/2016)