

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.732 of 2016

TATA AIG General Insurance Company
Limited, No.1, Ethiraj Salai, Egmore,
Chennai-8.

... Appellant/2nd
Respondent

Versus

1.Amaravathi ... 1st Respondent/Petitioner

2.Sai Travels,
M/70/2, 7th Avenue,
Besant Nagar, Chennai-90. ... 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 03.07.2015 made in M.C.O.P.No.5629/2012 on the file of the Motor Accidents Claims Tribunal, (IV Judge, Court of Small Causes), Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.K.Varadhakamaraj for R1
R2 Not ready in notice

J U D G M E N T

The Civil Miscellaneous Appeal has been filed, challenging the correctness of the impugned award dated 03.07.2015 made in M.C.O.P.No.5629/2012 on the file of the Motor Accidents Claims Tribunal, (IV Judge, Court of Small Causes), Chennai.

2.It is the case of the claimant that on 11.11.2012 at about 10.30 hours, when the claimant was walking at Kalvivar Street, a car bearing Registration No.TN 07 BF 2588 came on the same road in a rash and negligent manner and dashed behind the claimant. Due to the accident, the claimant sustained multiple grievous injuries. According to the claimant, the accident happened due to the rash and negligent driving of the driver of the car.

3.It is seen that due to the said accident, the injured/claimant has sustained right femur fracture, right ankle fracture and multiple injuries all over the body. The learned Tribunal, considering the nature of injuries sustained by the claimant in the said accident and due to the same, she was not able to fold her leg, sit properly, squat on the floor, climb the steps, unable to lift any weight and could not do any usual activity as she was doing before the accident and considering the evidence adduced by P.W.2/Doctor, who has issued Ex.P6/Disability Certificate and also considering the evidence adduced by P.W.3/Doctor, who has also issued Disability Certificate certifying that the injuries sustained by the claimant are permanent partial disability in nature and stating the disability percentage as 40% and also considering the fact that the claimant was a Mason and as there was no proof to substantiate her income namely a sum of Rs.12,000/- per month, has awarded the compensation as under, by following the ratio laid down by this Court in the case of National Insurance Company Ltd. v. G.Ramesh and another reported in 2013 (2) TN MAC 583 determining to award a sum of Rs.3,000/- for 1% disability:

Disability	Rs.1,05,000/-
Pain and suffering	Rs.1,00,000/-
Extra nourishment	Rs. 75,000/-
Transport to Hospital	Rs. 50,000/-
Damages to clothes	Rs. 3,000/-
Attender charges	Rs. 40,000/-
Medical expenses	Rs. 25,000/-
Future medical expenses	Rs. 25,000/-
Loss of income	Rs. 78,000/-
Loss of earning power	Rs. 50,000/-
Loss of amenities	Rs. 25,000/-
Total	Rs.5,76,000/-

4. Now in view of the consent given by both the appellant and the first respondent/claimant agreeing to pay/receive the following compensation, the civil miscellaneous appeal is disposed of for an award of Rs.3,80,000/- payable with interest at the rate of 7.5% per annum, under the following heads, instead of Rs.5,76,000/- ordered by the Tribunal.

Disability	Rs.1,20,000/- (@ Rs.3000/- per percentage)
Pain and suffering	Rs. 50,000/-
Extra nourishment	Rs. 25,000/-
Transport to Hospital	Rs. 25,000/-
Damages to clothes	Rs. 5,000/-

Attender charges	Rs. 30,000/-
Medical expenses	Rs. 25,000/-
Loss of income	Rs. 50,000/-
Loss of amenities	Rs. 50,000/-

Total	Rs.3,80,000/-

5. Since it was brought to the notice of this Court that the entire award amount as ordered by the Tribunal had already been deposited by the Insurance Company, in view of this order, the claimant is permitted to withdraw the award amount of Rs.3,80,000/- with interest at the rate of 7.5% per annum and the appellant/Insurance Company is permitted to withdraw the balance amount with accrued interest, if any, by moving appropriate applications before the Tribunal. No costs. Consequently, connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
(IV Judge, Court of Small Causes),
Chennai.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.58027

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.57915

C.M.A. No.732 of 2016

RK(CO)
CA(16/11/2016)