

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.892 of 2016
and
C.M.P.No.7168 of 2016

Reliance General Insurance Company
Limited
Regional Office,
Reliance House VI Floor
No.6, Haddows Road,
Nungambakkam
Chennai-600 006

....Appellant/Respondent-2

vs.

1.K.Valli1st Respondent/Petitioner

2.R.Sarangapani2nd Respondent/1st Respondent.

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.2169/2012 dated 12.12.2014 in the court of Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant : Mr.K.Moorthy

For Respondent No.1 : Mr.K.Varadhakamaraj

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH,J.)

The Reliance General Insurance Company Ltd., has filed the above appeal against the award made in M.C.O.P.No.2169 of 2012 dated 12.12.2014 on the file of Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2. It is a case of injury. On 20.10.2011, at about 15.30 hours, when the claimant/K.Valli was travelling as a passenger in a Share Auto bearing Reg.No.TN-07-AU-7340 belonging to the 2nd respondent herein, insured with the appellant/Insurance Company,

the driver of the share auto drove it in a rash and negligent manner and hit against the standing Van bearing Reg.No.AP-28-Y-5712, due to which, the claimant sustained grievous injuries. The injured was aged 40 years at the time of accident and was working as Assembling Operator in Volex Inter Connect Pvt Ltd., and was earning Rs.10,812/= per month. She filed a claim petition for compensation of Rs.6,00,000/-.

3. In support of the claim, the claimant examined herself as P.W.1 and one Dr. J.R.R.Thiagarajan who treated her was examined as P.W.2 and Exhibits P.1 to P.12 were marked. On behalf of the Insurance Company, neither any witness was examined nor any document was marked before the Tribunal.

4. The Tribunal, after taking note of the oral evidence of P.W.1 and Ex.P.1-Copy of F.I.R., and Ex.P.2-Accident Register Copy, held that due to the rash and negligent driving by the driver of the 2nd respondent's vehicle, the accident occurred and consequently, fixed the liability on the appellant/Insurance Company.

5. Based on the evidence, the Tribunal fixed the monthly income of the claimant at Rs.9,800/- per month. It was pointed out that the claimant has taken treatment from 04.11.2011 to 13.08.2013. Therefore, the Tribunal fixed ten months salary as loss of income at the rate of Rs.9,800 x 10 = Rs.98,000/-. Based on Exs.P.6 and P.7/Discharge summary and Ex.P.8/Medical Bills, Medical Expenditure was fixed at Rs.88,700/-. The Disability was fixed at 65% based on Ex.P.12/Disability Certificate. The Tribunal following the decision in the case of Nagappa Vs. Gurudayal Singh reported in 2003(2) SCC 274, calculated compensation at the rate of Rs.3000/- per percentage of disability. Further following the decision in the case of Syed Sadiq and others Vs. Divisional Manager, United India Insurance Co.Ltd., reported in 2014 (2) SCC 735, fixed 30% increase in future loss of income. Accordingly, the Tribunal, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of income for 10 months	Rs. 98,000/-
2	Transportation	Rs. 25,000/-
3	Extra nourishment	Rs. 25,000/-
4	Damage to clothes	Rs. 5,000/-
5	Medical expenses	Rs. 88,700/-
6	Attender Charges	Rs. 50,000/-

Sl. No.	Head	Amount granted by the Tribunal
7	Loss of Amenities	Rs. 50,000/-
8	Pain and Suffering	Rs. 50,000/-
9	Loss of Expectation of Life	Rs. 50,000/-
10	Future medical expenses with instrument	Rs. 1,00,000/-
11	Loss of future earning capacity	Rs. 14,90,580/-
	Total	Rs. 20,32,280/-

6. Insofar as the issue regarding negligence is concerned, the learned counsel for the Insurance Company has no serious objection, hence, the same is confirmed.

7. The learned counsel for the appellant/Insurance Company submitted that the disability fixed at 65% was not for the whole body and hence, the compensation arrived on the said head could not be sustained. He further contended that the compensation granted under other heads are also excessive.

8. On the other hand, the learned counsel appearing for the claimant contended that the compensation awarded for the injured claimant, who is still under treatment is very meagre and therefore, prayed for confirming the award.

9. Having gone through the award passed by the Tribunal and also going through the nature of injuries suffered by the claimant in the accident, in the considered view of this Court, the disability percentage calculated is slightly on the higher side. This Court feels that fixing the disability at 45% would be just and reasonable. Accordingly, the compensation under loss of future earning capacity is calculated by adopting multiplier of 15 as below:-

Rs.9800 x 30% future prospects x 12 x 45% disability x 15 multiplier.
=Rs.10,31,940/-.

Insofar as the compensation awarded under the other heads is concerned, this Court is of the considered view that the compensation granted are on the higher side and the same needs to be interfered with.

10. Accordingly, the compensation awarded by the Tribunal stands modified on all the heads as under:-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this court
1	Loss of income for 10 months	Rs. 98,000/-	Rs. 98,000/-
2	Transportation	Rs. 25,000/-	Rs. 10,000/-
3	Extra nourishment	Rs. 25,000/-	Rs. 10,000/-
4	Damage to clothes	Rs. 5,000/-	---
5	Medical expenses	Rs. 88,700/-	Rs. 88,700/-
6	Attender Charges	Rs. 50,000/-	Rs. 10,000/-
7	Loss of Amenities	Rs. 50,000/-	Rs. 25,000/-
8	Pain and Suffering	Rs. 50,000/-	Rs. 25,000/-
9	Loss of Expectation of Life	Rs. 50,000/-	---
10	Future medical expenses with instrument	Rs. 1,00,000/-	Rs. 50,000/-
11	Loss of future earning capacity	Rs. 14,90,580/-	Rs. 10,31,940/-
	Total	Rs. 20,32,280/-	Rs. 13,48,640/- rounded off to Rs.13,48,700/-

11. In the result, the Civil Miscellaneous Appeal is Partly Allowed.

- (i) The award of the Tribunal is reduced to Rs.13,48,700/- from Rs.20,32,280/-.
- (ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition.
- (iii) The appellant/Insurance Company is directed to deposit the modified amount of compensation along with interest, less the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this order.
- (iv) On such deposit, the claimant is permitted to withdraw the modified award amount by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra.

- (v) There will be no order as to costs in this appeal.
(vi) Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nvsri

To

The Motor Accident Claims Tribunal,
VI Court of Small Causes, Chennai.

+ 1 cc to Mr.K. Varadhakamaraj, Advocate SR.26451
+ 1 cc to Mr.K. Moorthy, Advocate SR.27010

C.M.A.No.892 of 2016

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