

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.2295 of 2013

and

M.P.No.1 of 2013

M/s. United India Insurance Company Ltd.,
Rep. by its Divisional Manger,
Divisional Office-II,
74-A, Salai Road, Trichy - 620 018.

... Appellant

vs

1. R.Thyagarajan
2. Dr.Sugashini

... Respondents

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 17.12.2012 made in M.C.O.P.No.106 of 2012 on the file of the Motor Accidents Claims Tribunal (District Judge), Perambalur.

For Appellant : Mr.D.Bhaskaran

For R-1 : Mr.M.Swamikkannu

For R-2 : Mr.P.Mani

- - - - -

JUDGMENT

This appeal is filed by the appellant/Insurance company against the award and decree dated 17.12.2012 made in M.C.O.P.No.106 of 2012 on the file of the Motor Accidents Claims Tribunal (District Judge), Perambalur.

2. The facts of the case are as follows:-

On 01.01.2012 at about 00.15 hours, when the claimant was riding his Hero Honda motorcycle bearing Registration No.TN-46-H-8349 at a normal speed on the main road of Elambalur, near Ram Theater, from North to South, keeping to his left side of the road, the Bolero car bearing Registration No.TN-46-L-4545 belonging to the first respondent and insured with the second respondent which was coming from the opposite direction viz., from South to North, driven by its driver rash and negligently dashed on the left side of the motorcycle of the claimant. As a result of which, the claimant sustained fracture and multiple grievous injuries and his motorcycle also sustained heavy damages. Claiming a sum of Rs.10,00,000/-, the claimant/first respondent herein had filed a petition for

compensation. The Tribunal, after considering the entire evidence adduced by both parties, awarded a sum of Rs.8,16,259/- towards compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit and awarded costs. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant/second respondent in the M.C.O.P.No.106 of 2012.

3. The learned counsel for the appellant/insurance company would contend that the Tribunal has not properly appreciated the multiplier method and awarded excessive compensation. The Tribunal ought not to have calculated the compensation according to multiplier method. Since the Tribunal is erroneously calculated the compensation, under the multiplier method, the award passed by the Tribunal has to be set aside and the claimant is only entitled to just compensation and hence, the appeal has to be allowed.

4. The learned counsel for the respondents would contend that the Tribunal, after considering the entire evidence adduced on either side, awarded appropriate compensation and there is no illegality or

infirmary in the order of the Tribunal and hence, the award passed by the Tribunal has to be confirmed and the appeal has to be dismissed.

5. This Court has heard the arguments made by the learned counsel on either side and perused the entire materials.

6. On the side of the claimant, Dr.Saravanan was examined as P.W.2 and partial permanent disability certificate was marked as Ex.P.17. The Doctor/P.W.2, in his evidence, specifically deposed that the claimant has sustained fracture in the left knee and also sustained fracture in the left foot and also there are so many disabilities for sitting and standing for a long time. Hence, the claimant has permanent disability to stand and taking classes as a teacher.

7. Considering the above, the Tribunal has fixed the income of the claimant and calculated the compensation on the basis of the multiplier method and awarded compensation. The Tribunal, after considering the oral and documentary evidence adduced on either side, awarded compensation under the following heads:-

Loss of income for		
Partial Permanent disability	-	Rs.6,12,000/-
Medical Expenses	-	Rs.1,00,209/-
Pain and Sufferings	-	Rs. 20,000/-
Transport Expenses	-	Rs. 9,000/-
Extra Nourishment	-	Rs. 10,000/-
Future Medical Expenses	-	Rs. 50,000/-
Discomfort	-	Rs. 10,000/-
Damage to the vehicle	-	Rs. 5,050/-
		Rs.8,16,259/-

8. Hence, the Tribunal, after considering the entire evidence and the documents alone awarded appropriate compensation. Hence, the argument of the learned counsel for the appellant/insurance company that the amount awarded by the Tribunal is excessive is not at all acceptable. Hence, this Court is of the considered view that there is no reason to interfere with the judgment of the Tribunal. Since the Tribunal awarded just compensation, the appeal deserves to be dismissed.

G.CHOCKALINGAM,J.

Jrl

9. In the result, this Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

15.11.2016

Internet : Yes
Jrl

To

The District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

C.M.A.No.2295 of 2013