

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2016

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.3644 of 2013
and MP.No.1 of 2013
and CMP.No.5953 of 2016

M/s.Iffco Tokio General Insurance Co. Ltd.,
Bangalore. ...Appellant/R3

Vs.

1.S.Kousalya Devi
2.Kamalraj

3.M/s.Sathyam Computers Ltd.,
S.P.Road, Secunderabad,
Andhra Pradesh. ... Respondents/
Petitioner and R1 & R2

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP. No.283 of 2010 dated 08.11.2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Udumalpet.

For Appellant : Mr.N.Vijayaraghavan
For Respondents : Mr.K.Govi Ganesan [for R1]
R2 & R3 [Exparte]

JUDGMENT

This is an appeal filed by the Insurance Company primarily on the ground that an award of Rs.4,16,000/- towards medical expenses in full was not justified since according to the insurer, out of Rs.3,53,476/- towards bill paid at the hospital, Rs.2,76,150/- was claimed from Medi Assist, a third party administrator for mediclaim benefit. Accordingly, the insurer had raised a ground that only Rs.76,326/- was paid by the injured claimant out of his pocket and hence the total award for Rs.5,61,000/- should be reduced accordingly.

2. This Court has considered the submission of the claimant that though medical expenses in part may have been paid already to the injured claimant, still the award under the other heads were on the lower side and further future medical expenses was not granted.

3. On a combined consideration of the facts and circumstances of the case, to strike a balance, this Court is of the view that it would be in the fitness of things to reduce the award, taking note of part medical expenses reimbursed and the fact that the award under other heads may be on the lower side, by fixing the just compensation at Rs.4,00,000/- with interest at 7.5% per annum on and from 08.11.2010, the date of claim petition till the date of payment by insurer as against the award of Rs.5,61,000/- with interest passed by the lower court.

4. It is brought to the notice of this Court that the entire award amount has been deposited by the insurer for the purpose of interim stay. In such circumstances, the injured claimant/1st respondent would be entitled to withdraw Rs.4,00,000/- plus proportionate interest as above from and out of the deposited amount. The balance of Rs.1,61,000/- with proportionate interest shall be withdrawn by the appellant/Insurance Company. The appeal stands disposed of accordingly. No order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Subordinate Court,
Udumalpet.

2.The Record Keeper,
VR Section,
High Court, Madras.

+1 cc to M/s.K.Goviganesan Advocate sr 73348
+1 cc to M/s.N.Vijayaraghavan Advocate sr 73969

CMA.No.3644 of 2013

gml(co)
aa23/02/2017