

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24/3/2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Civil Miscellaneous Appeal Nos.1252 and 1672 of 2016

C.M.A.No.1252 of 2016

A. Maria Babu Appellant /Claimant

Vs

1. S. Jiyaudeen

2. C. Muthuvel

3. Reliance General Insurance Co Ltd

No.408, 3rd Floor

Perundurai Road

Erode.

... Respondent /Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award of the Motor Accident Claims Tribunal (Sub-Court), Perundurai, in M.C.O.P.No.20 of 2014, dated 7/9/2015.

For Appellant : Mr.S.Kaithaimalai Kumaran

For Respondent 3: Ms.C.Harini
for M/s.MB.Gopalan Associates

सत्यमेव जयते
A N D

C.M.A.No.1672 of 2016

Reliance General Insurance Co Ltd

No.408, 3rd Floor

Perundurai Road

Erode.

...Appellant/3rd Respondent

Vs

1. A. Maria Babu

...1st Respondent/Claimant

2. S. Jiyaudeen

3. C. Muthuvel ...Respondents 2&3/R1 & R2

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award of the Motor Accident Claims Tribunal (Sub-Court), Perundurai, in M.C.O.P.No.20 of 2014, dated 7/9/2015.

For Appellant : Ms.C.Harini

For Respondents : Mr.S.Kaithamalai Kumaran

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by S.Manikumar,J)

On 8/7/2013, A. Maria Babu, was riding a motorcycle bearing Registration No.TN41Ac-8821, Rajan was the pillion rider. When they were travelling on Coimbatore to Salem National Highways road, a lorry bearing Registration No.TN52D-1522, insured with Reliance General Insurance Company Ltd., Erode, came in a rash and negligent manner and dashed against the two wheeler. Both of them sustained injuries all over the body. They were taken to KMCH, Perundurai and took treatment at Coimbatore. Claiming compensation, they filed M.C.O.P.Nos.20 and 18 of 2014, respectively.

2. Reliance General Insurance Company Limited, Erode, denied negligence attributed to the driver of the lorry, bearing Registration No.TN52D-1522.

3. Considering the oral and documentary evidence, the Tribunal fixed negligence on the driver of the lorry, accepted the avocation of the injured/Maria Babu, as fitter and taking note of the extent of disablement duly supported and quantified the compensation as Rs.14,87,675/-, with interest at the rate of 7.5% p.a., from the date of claim till deposit and costs, as hereunder:-

Loss of earnings during the treatment period	...	Rs. 1,00,000.00
Transport to Hospital	...	Rs. 10,000.00
Extra Nourishment	...	Rs. 25,000.00
Medical expenses	...	Rs. 9,87,675.00
Pain and sufferings	...	Rs. 2,00,000.00
Permanent disability 55% x Rs.3,000/-	...	Rs. 1,65,000.00
Total		Rs.14,87,675.00

4. Being aggrieved by the quantum of compensation of Rs.14,87,675/-, appellant/injured/Maria Babu has filed C.M.A.No.1252 of 2016 and Reliance General Insurance Company Limited, Erode, has filed C.M.A.No.1672 of 2016.

5. As both the appeals relate to quantum of compensation, they are taken up together and disposed of by a common judgment.

6. We have gone through the memorandum of grounds filed in C.M.A.Nos.1252 of 2016 and 1672 of 2016, respectively and prima facie satisfied that quantum of compensation awarded under certain heads requires to be enhanced.

7. Considering the nature of injuries, period of treatment, extent of disablement suffered by the injured/appellant in C.M.A.No.1252 of 2016 and also taking into consideration Ex.P.18, dated 30/8/2016, certificate in Diploma in Fire and Safety Engineering of Maria Babu; Ex.P.19 National Trade certificate of Maria Babu, Ex.P.20 dated 17/4/2008, Technical Examination certificate of Maria Babu and Ex.P.21 dated 29/7/2011 Admission ticket issued by Kerala Public Service Commission to Maria Babu, we deem it fit to enhance the compensation under certain heads.

8. Accordingly, the quantum of compensation is redetermined as Rs.16,87,675/- (Rupees Sixteen lakhs eighty seven thousand six hundred and seventy five only), with interest, at the rate of 7.5%, from the date of claim till deposit, under the following heads:-

Loss of Income	...	Rs. 2,50,000/-
Loss of Amenities	...	Rs. 50,000/-
Transport & Future Prospects	...	Rs. 10,000/-
Extra Nourishment	...	Rs. 25,000/-
Medical Expenses	...	Rs. 9,87,675/-
Pain & Suffering	...	Rs. 2,00,000/-
Permanent disability	...	Rs. 1,65,000/-
(55% x Rs.3,000/-)		-----
Total		Rs.16,87,675/-

9. Accordingly, C.M.A.No.1252 of 2016 filed by the injured is allowed. C.M.A.No.1672 of 2016 filed by M/s. Reliance General Insurance Company Limited, Erode, is dismissed.

10. Ms.C.Harini, learned counsel for Reliance General Insurance Company Limited/appellant in C.M.A.No.1672 of 2016 submitted that the entire award amount of Rs.14,87,675/- with proportionate interest and costs, has already been deposited to the credit of M.C.O.P.No.20 of 2014, on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Perundurai.

11. Mr.S.Kaithamalai Kumaran, learned counsel for the injured/appellant in C.M.A.No.1252 of 2016 submitted that out of the amount deposited, 50% of the same has been permitted to be withdrawn. Consequent to the dismissal of the appeal filed by the Insurance Company, appellant in C.M.A.No.1252 of 2016 is permitted to withdraw the balance amount lying in the credit of M.C.O.P.No.20 of 2014, on the file of the Motor Accident Claims Tribunal (Sub-Court), Perundurai.

12. Consequent to enhancement of compensation, in C.M.A.No.1252 of 2016, M/s. Reliance General Insurance Company Ltd., Erode, is directed to deposit Rs.2 lakhs (Rupees Two lakhs), with proportionate interest, at the rate of 7.5% p.a., from the date of claim, to the credit of M.C.O.P.No.20 of 2014, on the file of the Motor Accident Claims Tribunal (Sub-Court), Perundurai, within a period of four weeks, from the date of receipt of a copy of this order. On such deposit, appellant in C.M.A.No.1252 of 2016 is permitted to withdraw the amount deposited, by making necessary applications. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The Motor Accident Claims Tribunal (Sub-Court), Perundurai.

2.Copy to:
The Section Officer,
V.R.Section,
High Court,Chennai.

+1 cc to M/s.A.K.Kumarasamy,advocate,sr.18520

+1 cc to M/s.M.B.Gopalan Associates,sr.19429.

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