

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.Nos.696 and 697 of 2015
and Cross Obj.No.75 of 2015
and M.P.No.1 of 2015 in CMA No.696 of 2015

CMA No.696 of 2015
Royal Sundaram Allinace Insurance Company Ltd,
Sundaram Towers,
No.45/46, Whites Road,
Royapettah, Chennai - 600 014. Appellant in both/
2nd Respondent

vs.

1.Sakthidasan, 1st Respondent in CMA
No.696/2015

2.Sathish Kumar 1st Respondent in CMA
No.697/2015

3.A.Manicavassalou, 2nd Respondent in CMA
both CMAs

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988, against the Common Judgement and
Decree in MCOP No.106 of 2012 and 5862 of 2011 dated 28.03.2014
on the file of Motor Accident Claims Tribunal, [VI Court of
Small Causes], Chennai.

CROSS OBJECTION No.75 of 2015
Against C.M.A.No.696 of 2015

Sakthidasan Cross Appellant/1st Respondent

Vs.

1.Royal Sundaram Allinace Insurance Company Ltd,
Sundaram Towers,
No.45/46, Whites Road,
Royapettah, Chennai - 600 014.

2.A.Manicavassalou,2nd Respondents/2nd Respondents

Prayer of Cross Objection: Cross Objection under order 41 Rule 22 of CPC against the award dated 28.03.2014 made in M.C.O.P.No.106/2012 on the file of the Motor Accident Claims Tribunal, [VI Court of Small Causes], Chennai.

For Appellant in : N.Vijayaraghavan
both CMAs/
1st Respondent in
Cross Objection

For 1st Respondents/
in both CMAs/
Appellant in Cross
Objection : F.Terry Chella Raja

COMMON J U D G M E N T

[Made by S.MANIKUMAR, J.]

In the accident which occurred on 31.10.2011, Sakthidasan and Manicavassalou, sustained injuries. They filed M.C.O.P.Nos.106 of 2012 and 5862 of 2011 respectively, claiming compensation under various heads. Though, Royal Sundaram Alliance Insurance Company Ltd, Chennai, Insurer of the Motorcycle bearing Registration No.PY-01-AK-8464 and PY-01-BK-3415, disputed the manner of accident, liability and without prejudice to the same, the quantum of compensation claimed under various heads, vide common judgment and decree in M.C.O.P.Nos.106/2012 and 5862/2011 dated 28.03.2014, the Motor Accident Claims Tribunal (VI Court of Small Causes, Chennai, held that Royal Sundaram Alliance Insurance Co.Ltd.) is liable to pay compensation.

2. Having regard to the nature of injuries, period of treatment, disability assessed and other various heads in M.C.O.P.No.106 of 2012, Tribunal awarded Rs.13,17,000/-, as compensation with interest at the rate of 7.5% p.a from the date of claim till deposit. In M.C.O.P.No.5862 of 2011, the Tribunal awarded compensation of Rs.80,000/-, with interest at the rate of 7.5% p.a from the date of claim till deposit.

3. Being aggrieved by the common judgment and decrees, Royal Sundaram Alliance Insurance Company Ltd, has filed Civil Miscellaneous Appeal Nos.696 of 2015 and 697 of 2015. Not satisfied with the quantum of compensation of Rs.13,17,000/- awarded in M.C.O.P.No.106 of 2012, injured/claimant has filed Cross Objection No.75 of 2015.

4. As the appeals and cross objection, arise out of the common judgment and decrees, with the consent of the parties, they are taken up together for final disposal.

5. On this day, when the matter came up for hearing, Mr.N.Vijayaraghavan learned Counsel for the Company/appellant herein, submitted that challenge to the award in M.C.O.P.No.5862 of 2011 can be dismissed. Placing on record, Civil Miscellaneous Appeal No.697 of 2015 is dismissed.

6. On the quantum of challenge in Civil Miscellaneous Appeal No.696 of 2015 and Cross Objection No.75 of 2015, Mr.N.Vijayaraghavan, learned Counsel for Royal Sundaram Alliance Insurance Company Ltd, Chennai and Mr.F.Terry Chella Raja, learned Counsel for the injured/cross appellant, have arrived at a consensus that quantum of compensation Rs.13,17,000/- can be reduced to Rs.12,50,000, with interest at the rate of 7.5% from the date of claim till deposit. Inas much as consensus have been arrived at, there is no need to delve into the merits of the case, dealing with the nature of injury, treatment, extent of disablement and also earning capacity etc. Compensation awarded by the Tribunal is Rs.13,17,000/-. Compensation now consented to, by the parties is Rs.12,50,000/-. Therefore there is a reduction of Rs.67,000/-.

7. Mr.N.Vijayaraghavan, learned Counsel for Royal Sundaram Alliance Insurance Company Ltd, Chennai/appellants herein submitted that the award amount in both claim petitions have been deposited to the credit M.C.O.P.Nos.106/2012 and 5862/2011 respectively, on the file of Motor Accident Claims Tribunal (VI Court of small causes), Chennai.

8. In the light of the consensus arrived at, C.M.A.No.696/2015 is partly allowed. C.M.A.No.697/2015 is dismissed. Cross Objection No.75 of 2015 filed by Sakthidasan (M.C.O.P.No.106 of 2012) is dismissed. Injured/respondents in both the appeals, are permitted to withdraw the compensation amount awarded in M.C.O.P.No.5862 of 2011 and now determined on appeal in C.M.A No.696 of 2015 (M.C.O.P No.106 of 2012), by making necessary applications, before the Tribunal. Royal Sundaram Alliance Insurance Company Ltd/appellant herein is permitted to seek for refund of the balance amount, with proportionate interest by making necessary application. No costs in the civil miscellaneous appeals and the Cross objection. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

dm/asr

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

+1cc to M/s.N.Vijayaraghavan,Advocate sr.20879

+2cc to M/s.F.Terry,Advocate sr.20827,20826

C.M.A.Nos.696 and 697 of 2015
and Cross Obj.No.75 of 2015
and M.P.No.1 of 2015 in
CMA No.696 of 2015

cnr(co)
ss(10/5/2017)



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