

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.162 of 2006
& C.M.P.No.513 of 2006

The Divisional Manager,
The New India Assurance Co. Ltd.,
Divisional Office, No.1, Bharathi Road,
Cuddalore. ... Appellant/2nd Respondent

-vs-

1.Minor Shymala Devi,
D/o.Deivasigamani,
(minor repled. by her father and
natural guardian Deivasigamani),
South Street, Kamaraja Nagar,
Seplanatham, Neyveli - 2 (Via),
Vridhachalam Taluk. ...1st Respondent/Claimant

2.S.Ramalingam ...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.04.2005 made in M.C.O.P.No.740 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Sub Judge), Cuddalore.

For Appellant : Mr.K.Padmanabhan
For Respondent No.1 : Mr.R.Sreedhar
For Respondent No.2 : Exparte

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J U D G M E N T

The Insurance Company / respondent in M.C.O.P.No.740 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Sub Judge), Cuddalore, is the appellant. The claimant has filed the above Motor Claims Original Petition claiming a compensation of Rs.15,00,000/- for the injuries sustained by her, in a motor accident on 11.01.2003. The first respondent before the Tribunal is the owner of the offending vehicle.

2. In an accident that occurred on 11.01.2003 at about 5.00p.m., the first respondent / claimant sustained injuries. According to the claimant, the second respondent drove his motor cycle bearing Registration No. TN - 31 - E - 1300 in a rash and negligent manner and hit her, as a result of which, she sustained grievous injuries. The offending vehicle was insured with the appellant / Insurance Company.

3. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the second respondent and awarded compensation as detailed below:-

Pain and Sufferings	10,000.00
Nutrition	2,000.00
Attendant Charges	3,000.00
Medical Bills	19,743.00
Permanent Disability	50,000.00
Future loss of earning	1,00,000.00
Total	1,84,743.00

The total compensation of Rs.1,84,743/- was directed to be paid with interest at the rate of 9% per annum.

4. The learned counsel appearing for the appellant would contend that the claimant is not entitled to any amount under the head "future loss of earning", as she was not totally disabled to lead a normal life.

5. The learned counsel appearing for the first respondent / claimant would fairly concede that the claimant was a student and the question of awarding compensation under the head "loss of future earning" would not arise in this case. However, he would submit that, as the claimant suffered 40% disability, it may be calculated at the rate of Rs.3,000/- per percentage of disability.

6. In the case at hand, the accident occurred in the year 2003. Therefore, I am inclined to hold that instead of awarding compensation towards "loss of future income", the claimant is entitled to compensation under the head "permanent disability" and it is to be assessed at the rate of Rs.2,000/- per percentage. It comes to Rs.80,000/-. Hence, the amount under the head "permanent disability" should be enhanced from Rs.50,000/- to Rs.80,000/-. The Tribunal awarded only reasonable compensation under other heads and they are to be confirmed.

7. In the result, the Civil Miscellaneous Appeal is disposed of to the extent as indicated above. The Insurance Company is directed to deposit the enhanced award amount of Rs.2,14,743/- [Rupees Two Lakhs Fourteen Thousand Seven Hundred Forty Three only] with interest at the rate of 9% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.740 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Sub Judge), Cuddalore, within a period of six weeks from the date of receipt of a copy of this order. The claimant is permitted to withdraw the compensation amount award with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. Consequently, the connected Civil Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1. The Motor Accidents Claims Tribunal
(Principal Sub Judge),
Cuddalore.
2. The Section Officer,
V.R.Section, High Court,
Madras.

+1cc to Mr.Sreedhar, Advocate, S.R.No.9876

KJI (CO)
RS (20/03/2017)

C.M.A.No.162 of 2006

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