



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)Nos.83, 84 and 85 of 2015

and

M.P.(MD).Nos.1, 1 and 1 of 2015

The Divisional Manager,
The Oriental Insurance Company Limited,
No.4, Bharathidasan Salai,
2nd Floor, Cantonment,
Trichy-1. ... Appellant in C.M.A.Nos.83, 84 and
85 of 2015/Respondent No.I

Vs.

1.P.Jeyalakshmi ...1st Respondent in C.M.A.Nos.83 of 2015/
Petitioner
1.S.Pandian ...1st Respondent in C.M.A.Nos.84 of 2015/
Petitioner
1.K.Rajendran ...1st Respondent in C.M.A.Nos.85 of 2015/
Petitioner
2.K.Karuppiah
3.K.Manikandan ... 2nd and 3rd Respondents in C.M.A.Nos.83, 84
and 85 of 2015/Petitioners 1 & 2

Common Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 30.04.2012 made in M.C.O.P.Nos.434, 433, 432 of 2010 on the file of the Motor Accident Claims Tribunal, Kuzhithalai.

In all Appeals

For Appellant : Mr.P.Chandran
For Mr.S.Veeranasamy
(in all CMAs)
For Respondents : Mr.S.Sudhakar Nagaraj for R1
(in all CMAs)

Mr.N.Satheesh Kumar for R3
(in all CMAs)
R2-refused proof vide dated
24.10.2010, USR 4749, 4750, 4752
(in all CMAs)

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed these three appeals questioning the impugned awards on the ground of liability as well as quantum.

3.The learned counsel appearing for the appellant would submit that the accident happened on account of collision between the two-wheeler and mini door Auto. The said mini door van was admittedly insured with the appellant Insurance Company. It was originally owned by one Karuppaiah. Subsequently, the said karuppaiah had sold the vehicle to Manikandan. The accident occurred when the mini door Auto was owned by Manikandan. The name of Manikandan finds place in the RC book. But the insurance policy in respect of the mini door auto has not been changed from Karuppaiah to Manikandan. On this ground, the appellant insurance company wants to wriggle out. This argument cannot be accepted in view of Section 157 of Motor Vehicles Act. This Court holds that the appellant insurance company to be liable to satisfy the award.

4.The claimant in M.C.O.P.No.434 of 2010 corresponding to C.M.A.(MD).No.83 of 2015 is a case of injury. He had suffered multiple fractures and injuries all over the body. But this is not a case of functional disability. Therefore the Tribunal could not have adopted multiplier method. Hence the compensation payable to him will have to be reworked as under:-

S1.No	Heads	Amounts in Rupees
1.	For disability compensation	Rs.1,20,000/-
2.	For medical expenditure (including incurred and future)	Rs. 80,000/-
3.	For pain and suffering	Rs. 75,000/-
4.	For loss of income	Rs. 50,000/-
5.	For transportation	Rs. 3,500/-
6.	For attender charges	Rs. 3,000/-
	Total	Rs. 3,31,500/-

5.M.C.O.P.No.433 of 2010 corresponding to C.M.A.(MD).No.84 of 2015 is also a case of injury. But the Tribunal has adopted multiplier method, though there is no functional disability. Hence the compensation payable to the claimant will have to be reworked as under:-



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Sl.No	Heads	Amounts in Rupees
1.	For disability compensation	Rs.1,00,000/-
2.	For medical expenditure (including incurred and future)	Rs. 15,000/-
3.	For pain and suffering	Rs. 50,000/-
4.	For loss of income	Rs. 35,000/-
5.	For future medical expenses	Rs. 25,000/-
6.	For extra nourishment	Rs. 20,000/-
7.	For Transportation	Rs. 5,000/-
8.	For Attender charges	Rs. 3,000/-
	Total	Rs.2,53,000/-

6.M.C.O.P.No.432 of 2010 corresponding to C.M.A.(MD).No.85 of 2015 is also a case of injury. Though no functional disability has occurred, the Tribunal has chosen to adopt multiplier method. This is not correct. In this case disability has been assessed as 20%. Therefore the claimant can be held eligible to receive the compensation as worked out herein.

Sl.No	Heads	Amounts in Rupees
1.	For disability compensation	Rs. 60,000/-
2.	For medical expenditure (including incurred and future)	Rs. 50,000/-
3.	For loss of income	Rs. 7,500/-
4.	For pain and suffering	Rs. 25,000/-
5.	For extra nourishment	Rs. 50,000/-
	Total	Rs.1,92,500/-

7.The award dated 30.04.2012 made in M.C.O.P.Nos.434, 433, 432 of 2010 on the file of the Motor Accident Claims Tribunal, Kuzhithalai is modified accordingly.

8.The appellant insurance company is directed to deposit the entire compensation amount of Rs.3,31,500/-, Rs.2,53,000/- and Rs.1,92,500/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.



9. These Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar

To
The Motor Accident Claims Tribunal,
Kuzhithalai.

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.N.Satheesh Kumar, Advocate, SR.No. 86302

+1CC to Mr.N.Sudhagar Nagaraj, Advocate, SR.No. 86173

C.M.A. (MD) No.83 of 2015
and
M.P. (MD) .No.1 of 2015
09.11.2017

tsg
AM/SV MMS/SAR 4/20.12.2017/4P/5C