



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

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CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.954 of 2016

Royal Sundaram Alliance
Insurance Company Limited,
Krishna Plaza, 1st Floor,
Nachiyar Street, Erode-1,
Represented by its
Branch Manager.

... Appellant/2nd Respondent

vs

1. Nivetha
2. Vardhappan

... 1st Respondent/Claimant
... 2nd Respondent/1st Respondent

3. New India Insurance Company Limited,
Theni,
Represented by its
Branch Manager.

... 3rd Respondent/3rd Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the fair and decreetal order dated 15.04.2015 made in M.C.O.P.No.14 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal (Additional District and Sessions Judge), Theni at Periyakulam.

For Appellant : Mr.Jerin Mathew for
Mr.M.E.Ilango

For Respondents : Mr.G.Vanjinathan for R.1
: Mr.D.Malaichamy for R.3
: No Appearance for R.2

JUDGMENT

This Civil Miscellaneous Appeal has been filed by Royal Sundaram Alliance Insurance Company Limited, challenging the award dated 15.04.2015 made in M.C.O.P.No.14 of 2013 by the first



respondent / claimant herein. The claimant herein has suffered injuries in an accident that took place on 10.07.2012. The offending vehicle was insured with the appellant.

2. The learned counsel for the appellant fairly submits that they do not question their liability. But they are aggrieved by the quantum of compensation awarded in favour of the claimant. The claimant was a student when the accident took place. She has suffered fractures. But the fractures have healed completely. Though the claimants would contend that there has been a mal union, in the discharge summary it is specifically mentioned that the claimant is stable and that she was in a good condition and that is why she is being discharged. Even the claimant in her deposition admitted that she is pursuing her studies well. The claimant had not suffered any permanent disability at all. Even though P.W.4 had issued Ex.P.39 certificate stating that the claimant has suffered 30% disability, merely, because the medical certificate states that the claimant has suffered certain disability, it cannot be taken as gospel truth. Unless the claimant can establish that she has suffered disability and that it is permanent or partial in nature and that it has certain consequences compensation cannot be awarded under the said head. In this case, the claimant suffered fractures. But the same were medically treated and got healed. Therefore, the claimant has not shown as to how she suffered the adverse consequences. Mere marking of Ex.P39 through the doctor is not sufficient to establish that she is entitled to compensation under the head. In this case, awarding the sum of Rs.4,00,000/- towards disability is irrational. Therefore, the compensation to which the claimant is entitled will have to be reworked as follows:-

Compensation towards medical expenses	: Rs.2,15,400/-
Compensation for future medical expenses	: Rs. 30,000/-
For Transportation	: Rs. 2,826/-
Compensation for pain and suffering	: Rs.1,00,000/-

	Rs.3,48,226/-

3. The award passed by the Tribunal is modified and the compensation payable to the claimant is reduced from Rs.6,73,226 to Rs.3,48,226/-. The appellant is liable to pay the said sum of Rs.3,48,226/- to the first respondent at 7.5% interest per annum from the date of petition till the date of realisation. The appellant shall deposit the said amount within twelve weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No..14 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam, if the same is not already deposited. On such deposit, the claimant is permitted to withdraw the same by filing



proper application before the Tribunal. The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge,
Motor Vehicles Accident Claims Tribunal,
Theni, Periyakulam.

Copy To:-

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

- + 1 CC TO Mr.M.E.ILANGO, ADVOCATE IN SR No. 82367
- + 1 CC TO Mr.G.VANJINATHAN, ADVOCATE IN SR No. 82518
- + 1 CC TO Mr.D.MALAISAMY, ADVOCATE IN SR No. 82370

TSG

TE/MR/SAR-4 : 22/02/2018 : 3P/7C

JUDGMENT MADE IN
C.M.A. (MD) No.954 of 2016
11.10.2017