

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1376 of 2018 and
CMP No.10982 of 2018

Reliance General Insurance Co. Ltd.,
570, Nayagam Cross Road,
Royal Industrial Estate, Vadala,
Mumbai. Appellant/3rd Respondent

-vs-

1.Gopalasamy1st Respondent/Petitioner
2.Thangasamy
3.Velliangiri 2nd & 3rd Respondents/1st & 2nd
Respondents

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree dated
25.02.2015 made in M.C.O.P.No.829 of 2012 on the file of the
Motor Accident Claims Tribunal, Additional Sub Judge,
Tiruppur.

For Appellant : Mr.S.Arun Kumar

For Respondents: Mr.M.Lokesh for
Mr.Ma.P.Thangavel
for R1

For R2 & 3 : No representation

J U D G M E N T

[Judgment of the Court was made by
R.SUBRAMANIAN, J.]

The Insurance Company has come forward with this appeal
challenging the quantum awarded by the Tribunal.

2. The claimant was riding a Motor Cycle bearing
Registration No.TN-37-BT 6084, at that time, a lorry bearing
registration TN 37 D 5550, driven by its driver in a rash and
negligent manner dashed against the two wheeler. As a result
of the accident that took place on 18.02.2012, the claimant
had suffered fracture on his left leg apart from other
injuries. Taking into account the nature of injuries and the
evidence of P.W.3, the disability has been assessed at 50%.

3. Mr.S.Arun Kumar, learned counsel for the Insurance Company would contend that the injury sustained by the claimant is only a fracture on the thigh bone and it has been set right by performing surgeries. Therefore, the assessment of disability at 50% is on the higher side. Considering the above, we are of the view that the disability could only be 30%.

4. The Tribunal took the monthly income of the injured as Rs.5,000/- and awarded compensation of Rs.7,65,000/- towards Loss of Income. Considering the fact that the claimant is an Electrician, we are of the view that the monthly income taken by the Tribunal is very low. We are of the opinion that the monthly income could be taken as Rs.7,500/- and 40% should be added towards future prospects. Therefore, the monthly income of the claimant is fixed at Rs.10,500/-. The injured is aged about 30 years at the time of accident. Thus, the appropriate multiplier would be "17". If calculated on that basis, the Loss of Income works out to Rs.6,42,600/- (Rs.10,500 x 12 x 17 x 30/100).

5. The Tribunal has awarded a sum of Rs.7,06,000/- towards medical expenses; Rs.50,000/- towards pain and suffering, Rs.20,000/- towards transportation and Rs.20,000/- towards nutrition. The compensation awarded by the Tribunal under these heads is sustained.

6. The Tribunal has awarded Rs.50,000/- towards mental agony. The same is sustained. The Tribunal has not awarded any amount towards attender charges. Hence, Rs.20,000/- is granted towards attender charges.

7. Accordingly, the compensation awarded by the Tribunal in M.C.O.P.No.829 of 2012, stands modified as follows:

Sl. No	Head	Amount granted by the Tribunal	Amount awarded by this Court
1	Loss of Income of the deceased	Rs.7,65,000.00	Rs.6,42,600.00
2	Medical Expenses	Rs. 7,06,000.00	Rs.7,06,000.00
3	Pain and Suffering	Rs. 50,000.00	Rs. 50,000.00
5	Mental Agony	Rs. 50,000.00	Rs. 50,000.00
6	Transport	Rs. 20,000.00	Rs. 20,000.00
7.	Nutrition	Rs. 20,000.00	Rs. 20,000.00
8.	Attender Charges	-	Rs. 20,000.00
		Rs. 16,11,000.00	Rs.15,08,600.00

Rounded off to Rs.15,09,000/-

8. In the result, the Civil Miscellaneous Appeal is Partly Allowed as follows:-

(i) The award of the Tribunal is modified and reduced from Rs.16,11,000/- to Rs.15,09,000/-.

(ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

(iii) The appellant is directed to deposit the award amount, less the amount, if any, already deposited, along with interest within a period of four weeks from the date of receipt of a copy of this judgment.

(iv) On such deposit, the claimant is permitted to withdraw the entire amount deposited by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursal of the amount as stated supra on filing of such application.

No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

svki

To
The Motor Accident Claims Tribunal,
Additional Sub Judge, Tiruppur.

+1cc to M/s.MA.P.Thangavel, Advocate Sr.No.58920

+1cc to M/s.S.Arunkumar, Advocate SR.No.58503

CP(Co)
sm:9.10.2018

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