

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-11-2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2693 of 2015
and M.P No.1 of 2015

United India Insurance Co. Ltd.,
Branch Office - III, Arjuna Tower,
248/164, Cherry Road,
Salem - 636 001. ... Appellant /Second Respondent

Vs

1.Vittalraj
2.Gnanaraj ... Respondents/Petitioner/Ist Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 31.07.2015 made in MCOP No.1332 of 2013 on the file of the Motor Accident Claims Tribunal, (ADJ) at Namakkal.

For Appellant : M/s.I.Malar

For R-1 : Mr.Ma.P.Thangavel

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 31.07.2015 made in MCOP No.1332 of 2013 on the file of the Motor Accident Claims Tribunal, (ADJ) at Namakkal.

2. The appellant-Insurance Company is the 2nd respondent in M.C.O.P.No.1332 of 2013, filed by the first respondent on the file of Motor Accident Claims Tribunal, (ADJ) at Namakkal claiming a sum of Rs.5,00,000/- for the injuries sustained by him in the accident that took place on 04.08.2013.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the 2nd respondent and as insurer of the vehicle, directed the appellant-Insurance Company to pay a sum of Rs.6,16,700/- as compensation to the first respondent.

4. Against the said award dated 31.07.2015 made in MCOP No.1332 of 2013, the appellant-Insurance company has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the first respondent / claimant has not proved that he suffered functional disability. The Tribunal erred in applying multiplier method while awarding compensation for permanent disability. Though he has raised various grounds in the appeal, he contended that he is questioning the quantum of compensation alone and he prayed for setting aside the award of the Tribunal.

6. The learned counsel for the first respondent contended that the Tribunal, considering the evidence let in by the parties has awarded just compensation to the 1st respondent and the same is not excessive and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellant as well as first respondent and perused the materials available on record.

8. It is well settled that in the facts and circumstances of each case, multiplier method can be applied even in the case of injuries suffered by the claimants. At the same time, the Division Bench of this Court in the judgment reported in 2005 1 CTC 38 (United India Insurance Company vs. Veluchamy), held that lesser multiplier can be applied while awarding compensation to the injured claimants while applying the multiplier method. Considering the age of the first respondent who is 49 years at the time of accident, the Tribunal had applied multiplier 13. The first respondent has suffered 48% disability and to substantiate the said claim, he has examined P.W.2 doctor who has issued disability certificate. In view of the judgment of the Division Bench of this Court, by applying multiplier 8, the amount awarded by the Tribunal towards permanent disability is modified to Rs.2,76,480/- (Rs.6,000 x 12 x 8 x 48/100). However, the amounts awarded by the Tribunal under other heads are reasonable and hence they are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows -

Srl .No .	Description	Amount awarded by the Tribunal - Rs.	Amount awarded by this Court- Rs.	Reduced / Enhanced / Granted
1.	Loss of future earning capacity	4,49,280/-	2,76,480/-	Reduced
2.	Medical bills	97,411/-	97,411/-	Confirmed

3.	Pain & Sufferings	25,000/-	25,000/-	Confirmed
4.	Extra Nourishment	5,000/-	5,000/-	Confirmed
5.	Transportation	5,000/-	5,000/-	Confirmed
6.	Attender charges	10,000/-	10,000/-	Confirmed
7.	Loss of Amenities	25,000/-	25,000/-	Confirmed
	Total	6,16,691/-	4,43,891/-	Reduced by Rs.1,72,800/-

Rounded off 6,16,700/- 4,43,900/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is modified to Rs.4,43,900/- interest and costs. The appellant/Insurance Company is directed to deposit the award amount, now determined by this Court, alongwith interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of MCOP No.1332 of 2013. On such deposit, the first respondent is permitted to withdraw the same, alongwith accrued interest and costs, after adjusting the amount, already withdrawn, if any, by filing necessary applications before the Tribunal. The appellant/Insurance company is permitted to withdraw the excess amount, if any lying in the deposit, alongwith proportionate accrued interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Namakkal.

2.The Section Officer,
VR Section High Court, Madras-104. (+2copies)

+1cc to Mr.I.Malar, Advocate Sr.80552
+1cc to Mr.Ma.P.Thangavel, Advocate sr.80818

C.M.A.No.2693 of 2015

vg Ii[co]
srg 28/01/2019



WEB COPY