

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM:

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

C.M.A.No.1830 of 2018

M/s.Reliance General Insurance company Ltd.,
Rais tower, Plot No.2054,
2nd Avenue, 2nd Floor,
Anna Nagar, Chennai 40 : Appellant/2nd Respondent
versus
1.M.Kamalakaran .. 1st Respondent/Petitioner
2. V.Kumaravelu : Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the Judgment and Decree in MCOP No.540 of 2014, dated 21.6.2017 on the file of Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For appellant : Mr.M.B.Raghavan

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The right leg of the first respondent was amputated consequent to the injury sustained in a road accident on 26 October 2013. The Medical Officer certified the permanent disability @ 80%. The Motor Accidents Claims Tribunal took the disability at 70% and awarded the compensation. The Insurance Company has come up with this appeal on the ground that the award is excessive. The very same Insurance Company in the counter filed in MCOP No.540 of 2014, took up a contention before the Trial Court that the injuries are only bruises, minor in nature, simple and superficial and not grievous in nature. The award dated 21 June 2017 in MCOP No.540 of 2014 on the file of the Motor Accidents Claims Tribunal, Chennai, is under challenge on the grounds of liability and quantum.

2. The first respondent was an employee of The Park Hotel. He was working as a System Assistant. He was riding his motor cycle on 26 October 2013. While he was proceeding from South to North, a tipper lorry bearing registration No.T.N. 22 6786,

insured with the appellant, proceeded on the same direction and dashed against the motorcycle. The lorry ran over the right leg of the first respondent and he was seriously injured. The first respondent was taken to the Kilpauk Medical College Hospital. He was later taken to the Government General Hospital, Chennai, where his right leg was amputated. The first respondent on his discharge from the Government General Hospital, got admitted in Ramachandra Hospital for further surgeries. The first respondent, claiming compensation, initiated proceedings in MCOP No.540 of 2014 before the Motor Accidents Claims Tribunal, Chennai. The first respondent claimed a sum of Rs.50 lakhs as compensation.

3. The appellant filed a counter statement before the Motor Accidents Claims Tribunal. The appellant denied the accident, liability and the quantum claimed by the first respondent.

4. The Tribunal analyzed the evidence on record and applying the multiplier method, arrived at the compensation. The Tribunal followed the Supreme Court judgment in Sarla Varma vs. DTC, 2009 (6) SCC 121, for giving compensation under the head "future prospects". The Tribunal ultimately awarded a sum of Rs.23,48,300/-.

5. The appellant was a party to the proceedings. The appellant has not specifically denied that the second respondent has not taken policy in respect of the vehicle bearing registration No.T.N. 22 6786. Similarly, there was no evidence adduced by the appellant to show that the first respondent was negligent and the accident was on account of his rash and negligent driving.

6. It is not in dispute that the first respondent was an employee of The Park Hotel. His gross pay was proved by Ex.P-8, issued by the employer. The first respondent was aged 33 years at the time of the accident. The Tribunal therefore took the multiplier of 16 to assess the compensation. The Tribunal added 50% of the actual salary to the income on account of the future prospects.

7. The Constitutional Bench of the Hon'ble Supreme Court in National Insurance company Ltd. vs. Pranay Sethi and others, 2017(6) SCC 680, scanned the law relating to compensatory jurisdiction and issued detailed guidelines with respect to the award of compensation under different heads. The Hon'ble Supreme Court observed that in case the deceased had a permanent job and is below 40 years, an addition of 50% of the actual salary should be given towards future prospects.

8. In the subject case, the first respondent was in a permanent job. He was aged only 33 years at the time of the accident. The Tribunal was therefore correct in adding 50% of the actual salary towards the future prospects. The Tribunal has also given compensation under different heads following the ratio laid down by the Hon'ble Supreme Court in Sarla Varma vs. DTC, 2009 (6) SCC 121. We are therefore of the view that no interference is called for in the well considered award passed by the Motor Accidents Claims Tribunal.

9. In the upshot, we dismiss the civil miscellaneous appeal. No costs. Consequently, C.M.P.No.14137 of 2008 is also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.
2. The section Officer,
VR Section, High Court,
Madras (2 Copies)

+lcc to Mr.M.B.Gopalan, Advocate, S.R.No.56956

C.M.A.No.1830 of 2018

MR(CO)
CS/16/10/2018

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