

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN
and
THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.1852 of 2016
and
C.M.P.No.13562 of 2016

Branch Manager,
Reliance General Insurance Co. Ltd.,
Rai's Towers, 2nd Floor,
2nd Avenue, 2054 (Near GRT Jewellers),
Anna Nagar, Chennai - 600 040. ..Appellant/2nd Respondent

Vs.

1.S.Sundaramoorthy
2.S.Baskaran ..Respondents/Petitioner
& 1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.01.2016 in M.C.O.P.No.715 of 2012 on the file of the Motor Accidents Claims Tribunal (Special Sub Court), Cuddalore.

For Appellant .. Mr.S.Arun Kumar

For Respondents.. Mr.R.Sreedhar for R1
R2 - No appearance

JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The insurance company challenges the award of Rs.19,84,000/- for the injuries suffered by the claimant S.Sundaramoorthy in a motor accident that took place on 05.03.2012.

2.According to the claimant, the accident occurred when he was riding in the two wheeler bearing Regn. No.TN 31 AA 4219 near Thamaraikulam, Gandhi Nagar, Kadampuliyur, the Tata Indigo Car bearing Regn. No.TN 09 AH 1273 belonging to the second respondent insured with the appellant insurance company came in

the opposite direction and dashed against the motorcycle. As a result of the accident, the claimant was seriously injured, resulting in amputation of his right leg below the knee. The claimant sought for compensation of Rs.20 lakhs.

3.The claim was resisted by the insurance company contending that the rash and negligent driving of the injured alone was the cause for the motor accident and the driver of the car was not in any way responsible. The quantum of compensation was also denied.

4.Though a plea relating to negligence on the part of the injured was raised by the insurance company, we do not find any evidence that has been let in by the insurance company to prove the same. Therefore, the Tribunal on the basis of the F.I.R. concluded that the accident occurred due to the rash and negligent driving of the driver of the car insured with the appellants insurance company.

5.We have heard Mr.S.Arunkumar, learned counsel appearing for the appellants and Mr.R.Sreedhar, learned counsel appearing for the first respondent.

6.Mr.S.Arunkumar, learned counsel for the appellants/insurance company is unable to point out any evidence in support of the claim that the injured was negligent.

7.On the question of quantum, the insurance company found that the disability caused to the injured claimant due to the accident was 70%. Considering the fact that there has been amputation of right leg below the knee, 75% disability has been fixed. No doubt, the assessment of percentage of disability seems to be slightly on the higher side, we, however, do not think that the overall compensation is unjust. The Tribunal has taken the monthly income of the injured at Rs.7,000/- but has not taken into consideration the future prospects. Therefore, we do not see any reason to interfere with the quantum of compensation awarded under the head 'loss of earning power' at Rs.11,34,000/-, even though the assessment of percentage of disability is more. The Tribunal has granted a sum of Rs.2,60,000/- for permanent disability, Rs.3,08,000/- for medical expenses, Rs.22,000/- for transportation, Rs.50,000/- for loss of marital prospects, Rs.50,000/- for inconvenience and shock, Rs.1,00,000/- for future medical expenses, Rs.50,000/- for pain and suffering and Rs.10,000/- for nutritious food. In all, the Tribunal awarded a compensation of Rs.19,84,000/-. On an overall assessment, we find that the compensation is just and reasonable. We therefore confirm the award of the Tribunal.

8.The appellant insurance company has deposited 50% of the compensation amount. The balance amount with proportionate interest and costs shall be deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the same with proportionate interest and costs.

9.In fine, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Special Sub Judge,
(Motor Accidents Claims Tribunal),
Cuddalore.

2.The Section Officer, V.R.Section,
High Court, Madras.

+ 1 cc to Mr. S. Arunkumar, Advocate Sr.60038

+ 1 cc to Mr. R. Sreedhar, Advocate Sr.60235

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BR (CO)
EU (14/11/2018)

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