

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.02.2018

Coram

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

C.M.A.No.3017 of 2017
and
C.M.P.No.18134 of 2017

M/s.Reliance General Insurance
Co.,Ltd.,
Reliance House, 6th Floor,
Nungambakkam,
Chennai-600 006 ... Appellant/2nd Respondent

vs.

1.D.Muthu
2.R.Uma Maheswari ... Respondents/Petitioner & 1st Respondent

This Civil Miscellaneous Appeal is filed against the award dated 30.01.2017 made in M.C.O.P.No.3041 of 2014, by the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar
For Respondents No.1 : Mr.R.Nalliyappan

JUDGMENT

(Judgment of the Court was passed by A.SELVAM.J.)

This Civil Miscellaneous Appeal has been directed against the award dated 30.01.2017, passed in M.C.O.P.No.3041 of 2014, by the Motor Accidents Claims Tribunal, Chennai.

2.The first respondent herein, as petitioner, has filed M.C.O.P.No.3041 of 2014, on the file of the Motor Accidents Claims Tribunal, praying to pass an award to the tune of Rs.16 lakhs; wherein, the present appellant has been shown as second respondent.

3.The main averments made in the petition are that on 06.05.2014, at about 14.00 hours, the petitioner has driven his

motorcycle bearing Registration No.TN-22-BX-9732, on Velachery Erikarai Road from West to East. At that time, a Tavera car bearing Registration No.TN-22-BD-9571 has been driven from North to South in rash and negligent manner without following traffic rules and dashed against the motorcycle of the petitioner and thereby caused multiple injuries. The first respondent is the owner of the vehicle and the same has been insured with the second respondent. Under such circumstances, the present petition has been filed for getting the relief sought therein.

4.In the counter filed on the side of the second respondent it is averred to the effect that the accident has not happened due to rash and negligent driving of the driver of the first respondent. The age, avocation and income of the petitioner given in the petition are erroneous. The petitioner has claimed excessive compensation and there is no merit in the petition and the same deserves to be dismissed.

5.On the basis of the available evidence on record, the Motor Accidents Claims Tribunal has fixed a compensation of Rs.15,97,000/- by way of passing the impugned award and the same is being challenged in the present Civil Miscellaneous Appeal, by the second respondent, as appellant.

6.The learned counsel appearing for the appellant/second respondent has laconically contended to the effect that the Tribunal has fixed the age of the petitioner as 50, but in Ex.P7 it has been clinchingly stated to the effect that the petitioner has got birth on 01.07.1957. Since the accident has happened on 06.05.2014, the petitioner has completed 56 years and therefore, the conclusion arrived at by the Tribunal with regard to age of the petitioner and also multiplier adopted by it are totally erroneous. Under the said circumstances, the award passed by the Motor Accidents Claims Tribunal is liable to be modified.

7.To repudiate the contention put forth on the side of the appellant/second respondent, the learned counsel appearing for the first respondent/petitioner has contended to the effect that the disability certificate issued in favour of the petitioner has been marked as Ex.P8, wherein, the age of the petitioner has been fixed at 50 and the Tribunal, after considering the age mentioned in Ex.P8, has rightly fixed multiplier 13 and therefore, the quantum of award passed by the Motor Accidents Claims Tribunal does not require any interference.

8.On the basis of the rival submissions made on either side, the Court has to fix the correct age of the petitioner.

9.It is an admitted fact that on the side of the

petitioner, Ex.P7, copy of driving licence of the petitioner, has been marked, wherein, it has been clinchingly stated that the petitioner has got birth on 01.07.1957.

10.It is true that in Ex.P8-disability certificate it has been mentioned that the petitioner has attained only age of 50.

11.Considering the fact that Ex.P7 is nothing but a copy of driving licence, definitely the date of birth of the petitioner should be borne out by authenticated document. Under the said circumstances, the Court is bound to accept the date mentioned in Ex.P7.

12.It has already been pointed out that in Ex.P7, the date of birth of the petitioner is mentioned as 01.07.1957. The accident has happened on 06.05.2014. Therefore, it is quite clear that the petitioner has attained age of 56 at the time of accident.

13.Considering the fact that the petitioner has attained only age of 56 at the time of accident, as per Smt.Sarla Verma's case (2009(2) TNMAC 1), multiplier 9 has to be applied.

14.The Tribunal has fixed monthly income of the petitioner as Rs.7,200/- and by way of adopting 9 multiplier, it comes to Rs.7,77,600/-.

15.The Tribunal has given a sum of Rs.11,23,200/- towards pecuniary loss.

16.In the light of the discussion made earlier, this Court is of the view that the amount arrived at by the Tribunal towards pecuniary loss is erroneous and the petitioner is entitled to get only Rs.7,77,600/- towards pecuniary loss and in aggregation, the first respondent/petitioner is entitled to get Rs.12,51,400/- and to that extent, the Civil Miscellaneous Appeal is liable to be allowed in part.

In fine, this Civil Miscellaneous Appeal is allowed in part, without costs. The first respondent/petitioner is entitled to get Rs.12,51,400/- (Rupees Twelve Lakhs Fifty One Thousand Four Hundred only). Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

msk

To

The Motor Accidents Claims Tribunal,
III Court of Small Causes, Chennai

Copy TO

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Arun Kumar, Advocate SR.No.12900
+1cc to Mr.R.Nalliyappan, Advocate SR.No.13085

C.M.A.No.3017 of 2017

PA (CO)
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