



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.144 of 2016

and

CMP(MD)No.2376 of 2016

Royal Sundaram Alliance Insurance Co.Ltd.,
Bus Plaza 3rd Floor,
5G, Lasans Road,
Cantonment, Trichy.

... Appellant/2nd Respondent

vs.

1)Sevanthamani
2)Chandrakala

... Respondent/Petitioner

... Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 23.11.2015 made in MCOP.No.359 of 2013 on the file of Motor Accident Claims Tribunal (Sub Court), Kulithalai.

For Appellant	: Mr.S.Srinivasa Raghavan
For R1	: Mr.N.Sudhagar Nagaraj
For R2	: Mr.M.Mahendran

JUDGMENT

The present appeal has been filed against the fair and decreetal order dated 23.11.2015 made in MCOP.No.359 of 2013 on the file of Motor Accident Claims Tribunal (Sub Court), Kulithalai.

2.It is the case of the 1st respondent/claimant that on 28.10.2012, when she was walking on the extreme left side of Trichy-Dindigul main road, a Maruthi Alto Car bearing registration No.TN-45-AU-1077 belonging to the 2nd respondent insured with the appellant, driven by its driver in a rash and negligent manner dashed against her from behind. Due to the impact, the 1st respondent fell down and sustained multiple injuries all over the body including fracture in the right hand below knee, fracture in the left leg below knee, fracture in the right side spinal cord, fracture in the right thigh and severe head injury. Immediately, she was taken to Dr.Kalaiarasan Hospital, Manapparai, and thereafter, she took treatment as inpatient in Vikram Hospital, Madurai, for the period between 28.10.2012 and 18.11.2012. It is the claim of the petitioner that she incurred Rs.3,50,000/- towards medical expenses. She made a claim in MCOP.No.359 of 2013 on the



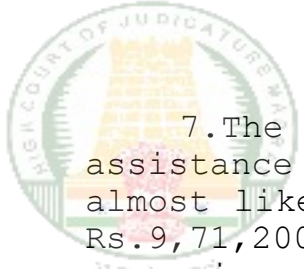
file of Motor Accident Claims Tribunal (Sub Court), Kulithalai, claiming compensation of Rs.15,00,000/- for the injuries sustained by her in the accident. The appellant filed counter denying the manner of accident contending that without noticing the Car, the injured crossed the road and invited the accident and therefore, the appellant is not liable to pay compensation.

3.Considering the oral and documentary evidence on either side, the Tribunal held that the driver of the Car belonging to the 2nd respondent insured with the appellant was responsible for the accident and awarded compensation of Rs.9,71,200/- with 7.5% interest per annum from the date of petition till the date of deposit. Aggrieved by the said award, the appellant has filed this appeal.

4.The manner of accident is not in dispute. Perusal of the record shows that wound certificate of the injured issued from Vikram Hospital, Madurai, has been marked as Ex.P3. The claimant took treatment in the said hospital on two spells that is from 28.10.2012 to 18.11.2012 and from 24.07.2013 to 29.07.2013. The discharge summary issued for the above period has been marked as Exs.P5 and P6 respectively. A staff from the Vikram Hospital, Madurai, has been examined as PW2, who deposed that the claimant took treatment in the said hospital from 28.10.2012 to 18.11.2012 and from 24.07.2013 to 29.07.2013 and she paid Rs.1,70,000/- towards medical bills which has been marked as Ex.P12.

5.Perusal of the record further shows that the Doctor who issued the disability certificate has been examined as PW3. He has deposed that he perused the accident register, wound certificate, discharge summary, treatment record and found that the claimant sustained fracture in the right hand below knee, fracture in the left leg below knee, fracture in the right side spinal cord and fracture in the right thigh. On physical examination, the Doctor found that the movement of right hip, right knee, left knee and ankle is reduced and on perusal of Ex.P14-X-ray, he found that there was malunion of bones. He further deposed that the claimant cannot walk or stand and she has to sit in the wheel chair and she cannot even attend natural call by herself. So saying, the Doctor has issued Ex.P13-disability certificate stating that the claimant has sustained 85% partial permanent disability.

6.Today, the matter was mediated by me in Chambers. The claimant was directed to be present before this Court and accordingly, she was brought before this Court in a wheel chair. From the appearance of the claimant in a wheel chair, I could able to see that the claimant was immobilised and she could not even attend her natural calls by herself and she needs assistance to fulfil her requirements. Upon seeing the appearance of the 1st respondent/claimant, learned counsel for the appellant also convinced with the inability and disability of the claimant.



7. The appearance of the claimant itself shows that without the assistance of others, the claimant cannot even move and she is almost like a vegetable. Therefore, the quantum of compensation of Rs.9,71,200/- awarded to the 1st respondent cannot be said to be excessive or bonanza warranting interference by this Court. Accordingly, the quantum of compensation is sustained.

8. The appellant is directed to deposit the entire award amount with interest and costs, less the amount already deposited, if any, to the credit of the claim petition within a period of four weeks from the date receipt of a copy of this judgment, if not deposited already. On such deposit, the 1st respondent/claimant is permitted to withdraw the same without filing any formal petition before the Tribunal.

Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Kulithalai.

+1cc to Mr.N.SUDHAGAR NAGARAJ, Advocate, SR.No.70756

+1cc to Mr.S.SRINIVASA RAGHAVAN, Advocate, SR.No.71082

CMA (MD) No.144 of 2016
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