BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.842 of 2013

D.Muthukumaran ... Appellant/Claimant

Vs.

1. R.Jeya Raman

2. The Divisional Manager,
M/s.United India Insurance Company Ltd.,
Division I, 7A, West Veli Street,
Madurai – 2.

3. J.Ponniyan Selvi

4. The Divisional Manager,
M/s.United India Insurance Company Ltd.,
Division I, 7A, West Veli Street,
Madurai. ... Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 09.03.2009, made in MCOP No.1844 of 2000 on the file of Motor Accident Claims Tribunal, III Additional Sub Court, Madurai.

For Appellant : Mr.R.Venkatesan

For R.2 & R.4 : M/s.Royce Immanuvel

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JUDGMENT

Assailing over the judgment and decree passed by the learned III Additional Subordinate Judge, Motor Accident Claims Tribunal, Madurai, in M.C.O.P.No.1844 of 2000, dated 09.03.2009, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing for the respective parties and perused the records carefully.

3. It is a case of injury and the claimant / injured, being dissatisfied with the compensation of Rs.3,87,363/- awarded by the Tribunal, is before this Court, seeking enhancement.

4. The mode of accident, which occurred on 30.09.1999, is not disputed, however, the learned Counsel for the appellant prays the interference of this Court on liability and quantum.

5. According to the learned Counsel for the appellant, the policy is a comprehensive policy, which is not refuted by the learned Counsel for the Insurance Company and therefore, the Tribunal ought to have fixed the liability on the Insurance Company and directed the second respondent / Insurance Company to pay the compensation, instead of directing the first respondent / owner of the vehicle to pay the compensation, which is not justifiable and thence, he prays for interference.

6. This Court finds some force in the said submission. On a perusal of records, it is seen that the policy is a package policy. It is a settled law that comprehensive / package policy would cover the liability in respect of third party occupants, as has been held by this Court, in the judgment reported in ***(2009) 2 MLJ 963,*** in the case of ***Royal Sundaram Alliance Insurance Co. Ltd., Coimbatore v. A.Meenakshi and others***. Therefore, in the case on hand, this Court is of the view that the second respondent / Insurance Company has to be made liable and accordingly, the second respondent / Insurance Company is hereby directed to pay compensation for the appellant / claimant, i.e., the injured.

7. The next ground raised by the appellant / claimant is on quantum. Perusal of record shows that the appellant / claimant, in consequence to the accident in question, has sustained grievous injuries and the Doctor has assessed the disability as 33% and the Tribunal, in the absence of any contra evidence, has accepted the same and awarded a sum of Rs.66,000/- towards disability, which, in my considered opinion, is very meagre.

8. Though the accident took place in the year 1999, considering the nature of injuries and the fact that the case is pending all along till date, this Court, considering the present day cost of living, awards a sum of Rs.3,000/- per percentage of disability, as per the judgment rendered by this Court in the decision reported in ***2013 (2) TN MAC 583***. Therefore, the compensation towards disability is enhanced from Rs.66,000/- to Rs.99,000/- (33% X Rs.3,000/-), i.e., Rs.33,000/- is enhanced towards disability.

9. Other than this head, the compensation awarded by the Tribunal is reasonable and therefore, the same stands confirmed.

10. In result, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the Tribunal is enhanced and the total award amount is fixed at Rs.4,20,363/- [Rs.3,87,363/- awarded by the Tribunal + Rs.33,000/- enhanced by this Court towards disability].
- The second respondent / Insurance Company is directed to deposit the sum of Rs.4,20,363/- [Rupees Four Lakh Twenty Thousand Three Hundred and Sixty Three only] towards compensation with accrued interest @ 7.5% and costs, within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit being made, the appellant / claimant is permitted to withdraw the same with accrued interests and costs, without filing any formal application before the Tribunal.
- However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The III Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Madurai.

Copy to

The Section Officer,(2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc toM/s.Royce Immanuvel,Advocate Sr.No.72402
+1cc to M/s.Right Law Association, Sr.No.72101

GK

VB/SKN/RSK/SAR4/03.08.2018/3P/6C

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