

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2520 of 2011

and

M.P.No.1 of 2011

Divisional Manager,
United India Insurance Co. Ltd.,
No.46, Katpadi Road,
Vellore.

.... Appellant/2nd Respondent

... Vs ...

1. Perumal .. 1st Respondent/Claimant

2. Sankarappa
(R-2 Given up) .. 2nd Respondent/1st Respondent

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.04.2010 made in M.C.O.P.No.517 of 2009 on the file of the Motor Accidents Claims Tribunal (Additional Sub-Judge) at Thiruvannamalai.

For Appellant : Mr.S.Arun Kumar
For R-1 : No Appearance

JUDGMENT

The Insurance Company has filed this civil miscellaneous appeal challenging the Judgment and decree dated 28.04.2010 made in M.C.O.P.No.517 of 2009 on the file of the Motor Accidents Claims Tribunal (Additional Sub-Judge) at Thiruvannamalai.

2. The accident in this case happened on 23.06.2009 at about 5.45 a.m. The claimant was proceeding in a Bi-cycle at Thiruvannamalai-Chengam road from West to East and at that time, a Car bearing Registration No.KA-02-M-4964 insured with the appellant/Insurance Company came from the opposite direction and hit the cyclist and as a result of which, the claimant had sustained injuries. Hence, he has filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. The Tribunal, after considering both oral and documentary evidence adduced on behalf of the claimant, awarded a sum of Rs.4,15,495/- together with interest at 7.5% and costs to the claimant. As against the

said award passed by the Tribunal, the Insurance Company has filed this appeal.

3. The finding regarding rash and negligent driving on the part of the driver of the offending vehicle is not in dispute. The quantum of compensation alone is under consideration in this appeal.

4. Learned counsel appearing for the appellant/Insurance Company drawn my attention to the Permanent Disability Certificate/Ex.P.9 issued by P.W.2-Dr.Ravindran.

5. It is seen from the evidence of P.W.2-Dr.Ravindran that the injured/claimant sustained two injuries one in the right hip and another in the right hand and due to the injuries, he has underwent surgery and as a result of which, he suffered shortening of right leg by 4 c.m. P.W.2-Doctor has assessed the injury on the right hip at 30% and injury on the right hand at 30% and thereby assessed the partial permanent disability at 60% and the same was accepted by the Tribunal.

6. After going through the documentary evidence of Ex.P.2-Wound Certificate, Ex.P.6-Discharge Summary and Ex.P.9-Permanent Disability Certificate, the partial permanent disability is fixed at 40%. Accordingly, loss of income to the claimant due to the injury sustained in the accident is re-assessed at Rs.4,000/- x 12 x 11 x 40/100 = Rs.2,11,200/-. In respect of other heads, I find that the compensation awarded by the Tribunal is just and reasonable and hence, the same are confirmed.

7. Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
1.	Loss of income	Rs. 3,16,800/-	Rs. 2,11,200/-
2.	Medical expenses	Rs. 42,695/-	Rs. 42,695/-
3.	Transportation charges	Rs. 2,000/-	Rs. 2,000/-
4.	Extra Nourishment	Rs. 2,000/-	Rs. 2,000/-
5.	Attender charges	Rs. 2,000/-	Rs. 2,000/-
6.	Loss of Amenities	Rs. 25,000/-	Rs. 25,000/-
7.	Pain and Sufferings	Rs. 25,000/-	Rs. 25,000/-
	Total	Rs. 4,15,495/-	Rs. 3,09,895/-

8. In the result,

I. The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is reduced to Rs.3,09,895/- from Rs.4,15,495/-.

II. The interest granted by the Tribunal at 7.5% stands confirmed.

III. The appellant-Insurance Company is directed to deposit the modified amount within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

IV. On such deposit being made, the first respondent/claimant is permitted to withdraw the modified award amount with proportionate interest, less the amount already withdrawn, if any.

V. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Additional Sub Judge,
Motor Accidents Claims Tribunal,
Thiruvannamalai.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras. (2 Copies)

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.15307

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SR(CO)
CS/06/05/2019