

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.207 of 2013
and M.P.No.1 of 2013

United India Insurance Company Ltd.,
50, Pallivasal Street,
Perambalur.

... Appellant/2nd Respondent

Vs

1. Selvi
2. Subramanian

... Respondents/Claimant
1st Respondent

PRAYER :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree made in MCOP No.90 of 2009 on the file of the Motor Accidents Claims Tribunal (Sub Court), Ariyalur dated 21.03.2012.

For Appellant : Mr.D.Bhaskaran

For Respondents : No appearance

J U D G M E N T

United India Insurance Company Ltd., has filed this appeal challenging the award dated 21.03.2012 passed in M.C.O.P.No.90 of 2009 on the file of the Motor Accidents Claims Tribunal (Sub Court), Ariyalur.

2. The only contention raised by learned counsel for the appellant/United India Insurance Company is that the quantum of compensation is on the higher side.

3. The first respondent/claimant has been served on 29.01.2013. However, there is no appearance. The conditional order passed by this Court dated 29.01.2013 has been complied with. Thereafter, when the matter was listed on 05.02.2019, none represented the first respondent/claimant. Today also there is no appearance on the part of the first respondent/claimant.

4. It is a case of injury. In this case, the accident happened on 27.12.2008 at about 8.00 a.m., when the petitioner was riding her bicycle from Chettikuzhipallam village to Udayarpalayam. It is stated that the injured claimant, a coolie, aged about 35 years, was driving bicylce and the same was hit by a Mini lorry bearing Registration No. TN-46-A-3921 belonging to the second respondent insured with the appellant herein. In the said accident, the claimant sustained stitched wound in the head, fracture in the left hand finger, abrasion in the right shoulder, lacerated injuries in both the side of the thigh portions. She was admitted at Jayankondam Govt.Hospital and further she took treatment at Thanjavur Medical College Hospital as inpatient. The injured claimant claimed a sum of Rs.3,00,000/- as compensation before the Tribunal.

5. The finding of the Tribunal with regard to negligence on the part of the driver of the Mini lorry and the consequential liability fixed on the appellant Insurance Company to compensate the claimant is not in dispute and the same is confirmed.

6. The only contention raised by the learned counsel for the appellant/Insurance company is on the quantum of compensation. It is also contended by the learned counsel for the appellant that the claimant has taken treatment as inpatient in the Hospital only for 5 days and not as stated in the claim petition.

7. Before the Tribunal, the injured claimant was examined as P.W.1. One Doctor Saravanan, who assessed the partial disability of the injured at 14%, was examined as P.W.2. In support of the claim petition Exs.P1 to P7 were marked. Ex.P1-is the copy of the FIR, Ex.P2-Xerox copy of Accident Register, Ex.P3-Discharge summary, Ex.P4-Medical Bill series, Ex.P5-Doctor Prescription, Ex.P6-Disability, Ex.P7-X-ray report.

8. The injured claimant in this case was aged about 35 years at the time of accident. Based on the evidence on record, the Tribunal fixed

the income of the injured claimant at Rs.1,500/- p.m. The Tribunal adopted the multiplier '14' and fixed the compensation for the partial disability at Rs.21,000/-. The Tribunal has fixed the monthly income at Rs.1,500/-, however, considering the facts and circumstances of the case, the same is enhanced to Rs.2,000/-. Therefore by enhancing the monthly income as Rs.2,000/- the partial disability would be Rs.28,000/- (Rs.2,000/-x 14% = 28,000/-).

9. Pain and suffering:

The Tribunal has awarded a sum of Rs.40,000/- towards pain and suffering. Since, this court is of the view that the said sum is very high for Pain and suffering, the same is reduced to Rs.20,000/-

10. Extra Nourishment:-

Since the amount Rs.30,000/- awarded by the Tribunal under this head is not reasonable the same is reduced to Rs.10,000/-.

11. Medical expenses:

The first respondent/claimant took treatment at Jayankondam Government Hospital only and there is no proof to show that the claimant took treatment at Private Hospital. Hence the award of Rs.50,000/- towards medical expenses granted by the Tribunal, is reduced to Rs.15,000/-

12. Transportation:

The Tribunal has awarded a sum of Rs.10,000/- towards Transportation charges and the same is confirmed.

13. Loss of income:

The Tribunal has not awarded any amount under the head "loss of income". Considering the nature of injury and treatment taken thereof, this Court is inclined to award Rs.15,000/-.

14. Future Medical Expenses and Damages:-

The Tribunal awarded Rs.24,000/- towards future medical expenses. However considering the age of the injured, since there is possibility of rejuvenation, the compensation of Rs.24,000/- granted is reduced to Rs.5,000/-. As far as damages, is concerned, no amount is granted by Tribunal and hence, a sum of Rs.2000/- is granted by this court.

Head	Amount awarded by the Tribunal	Amount awarded by this Court
Disability	Rs. 21,000/-	Rs. 28,000/-
Medical Expenses	Rs. 50,000/-	Rs. 15,000/-
Extranourishment	Rs. 30,000/-	Rs. 10,000/-
Transportation	Rs. 10,000/-	Rs. 10,000/-
Pain and Suffering	Rs. 40,000/-	Rs. 20,000/-
Future Medical expenses	Rs. 24,000/-	Rs. 5,000/-
Damages	-	Rs. 2,000/-
Loss of income		Rs. 15,000/-
Total amount	Rs.1,75,000/-	Rs.1,05,000/-

15. Hence, the total compensation payable in this case is Rs.1,05,000/-

16. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. It is reported that Rs.1,00,000/- of the award amount has already been deposited by the appellant. Hence, it is directed that the appellant/insurance company shall deposit the balance amount as awarded in this judgment within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the entire award amount with interest and costs to the bank account of the claimant through RTGS within a period of one week thereon.

17. In the result the Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal to the tune of Rs.1,75,000/- is reduced to Rs.1,05,000/-. Consequently, the connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Ariyalur

Copy To
The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.10479

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SSI(CO)
CS/26/04/2019