

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.694 of 2015
and
M.P.No.1 of 2015

M/s. Future Generali India Insurance Co. Ltd.,
1st Floor, Basudha Tower,
No.1579-A, 15th Main Road,
J-Block, Anna Nagar,
Chennai - 600 040.

... Appellant/2nd respondent

Vs.

1. Deivasigamani
2. P.A.Vasudevan

...1st respondent/ Petitioner
...2nd Respondent/1st respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 13.10.2014 made in M.C.O.P.No.4388 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr. M.B.Gopalan
For R1 : Mr.M.Malar

J U D G M E N T

This appeal is preferred by the Insurance Company against the award of a sum of Rs.4,82,200/- towards compensation to the first respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 29.05.2012, at about 19.30 hours, the first respondent/claimant was traveling as a passenger in an Auto bearing Registration No.TN 32 M 7315. When the auto was proceeding in ECR Road at Kottaikadu - Vepanoor ECR Junction, Kancheepuram District, a Maruti Zen Car bearing Registration No. PY 01 AP 2219 belonging to the second respondent and insured with the appellant insurance company, came in a rash and negligent manner and dashed against the Auto. Due to the said impact, the first respondent/claimant sustained

grievous injuries. Stating so, he filed a claim petition, claiming compensation of Rs.6,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Car and awarded a total compensation of Rs.4,82,200/- with interest at 7.5% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3. The learned counsel for the appellant Insurance Company has disputed only the quantum of compensation awarded by the Tribunal, stating that the same is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent and hence, the same has to be reduced to certain extent.

4. Per contra, the learned counsel for the first respondent/claimant submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5. Heard the learned counsel appearing for the appellant and learned counsel appearing for the first respondent and perused the materials available on record carefully and meticulously.

6. There is no dispute with regard to the findings of the Tribunal on negligence and liability of the insurance company to pay compensation.

7. As regards the quantum of compensation, the Tribunal has awarded Rs.1,40,000/- for permanent disability, Rs.40,000/- for transport charges, Rs.50,000/- towards Extra Nourishment, Rs.1,00,000/- towards Pain and suffering, Rs.40,000/- towards Attender Charges, Rs.50,000/- towards loss of Amenities, Rs.50,000/- towards future medical expenses, Rs.9,181/- towards medical expenses, Rs.3,000/- towards damage to clothes, in totalling a sum of Rs.4,82,181/- @ Rs.4,82,200/- to the first respondent/claimant.

8. It is seen from the award that the first respondent/claimant himself examined as P.W.1, who deposed that he was aged 45 years and was earning Rs.10,000/- by working as an Assistant to Village Administration Officer. However, no authenticated document was filed to prove the same. P.W.2/Doctor in his evidence, has narrated about the nature of the injuries sustained by the claimant. After assessing the first respondent/claimant, the doctor issued Ex.P10 permanent disability certificate to the tune of 75%. The Tribunal has taken the permanent disability at 70% and awarded Rs.1,40,000/- for permanent disability, which in the opinion of this Court, is on the higher side and hence, the same is hereby reduced to

Rs.1,35,000/-, taking the permanent disability at 45% and awarding Rs.3,000/- per percentage. Similarly, the compensation awarded by the Tribunal towards transport charges, extra nourishment, pain and suffering, attender charges and loss of amenities are slightly on the higher side and hence, the same are hereby reduced to Rs.10,000/-, Rs.10,000/-, Rs.30,000/-, Rs.10,000/- and Rs.20,000/- respectively.

9. Considering the nature of the injuries sustained by the first respondent/claimant and period of treatment undertaken by him, this Court is inclined to award a sum of Rs.30,000/- towards loss of income and the same is accordingly awarded. However, there is no modification as regards the compensation awarded by the Tribunal towards medical expenses, damage to clothes and future medical expenses for Rs.9,181/-, Rs.3,000/- and Rs.50,000/- respectively. Thus, the total compensation awarded by the Tribunal is reduced from Rs.4,82,200/- to Rs.3,07,200/-, the break-up details of which, read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Permanent disability	1,40,000/-	1,35,000/-
Loss of Income	---	30,000/-
Medical expenses	9,181/-	9,181/-
Transportation	40,000/-	10,000/-
Extra Nourishment	50,000/-	10,000/-
Attendant charges	40,000/-	10,000/-
Pain and suffering	1,00,000/-	30,000/-
Loss of amenities	50,000/-	20,000/-
Future medical Expenses	50,000/-	50,000/-
Damage	3,000/-	3,000/-
Total	4,82,181/- rounded off to Rs.4,82,200/-	3,07,181/- rounded off to Rs.3,07,200/-

10. In fine, this appeal is partly allowed. No costs. Consequently connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the modified compensation amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from

the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge,
Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.

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

+1cc to Mr.V.Velu , Advocate SR.No. 91646

+1cc to Mr.M.B.Gopalan , Advocate SR.No. 91275

C.M.A.No.694 of 2015
and
M.P.No.1 of 2015

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A.SK(10/09/2020)

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