IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 27.09.2019

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

C.M.A. No.3589 of 2019
and CMP.No.20775 of 2019

M/s.Reliance General Insurance Company Limited,
3rd Floor, Sakthi Super Market Building,
No.408, Perundurai Road,
Erode - 11.

.. Appellant/2nd Respondent

versus

1.S.Sathishkumar ..1st Respondent/Claimant
2.G.R.Venkatachalam ..2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying against the Judgment and made in M.C.O.P.No.281 of 2013, dated 08.11.2018, on the file of the Motor Accidents Claims Tribunal Special Subordinate Court No.2, Salem.

For Appellant : Mr.N.Vijayaraghavan

J U D G M E N T

As against the claim amount of Rs.20,00,000/- by the claimant, who suffered injuries in a Road Traffic Accident between a two wheeler and a lorry, wherein, the claimant was aged 24, working as a supervisor in a theatre, earning a sum of Rs.8,000/- per month, the Tribunal has awarded a sum of Rs.16,66,801/- as total compensation with interest at the rate of 7.5% per annum from the date of petition.

2. Aggrieved over the negligence fixed on the Insurer and the quantum arrived at, the Insurer/Insurance Company has filed this appeal.

3. Heard the learned counsel for the appellant. This appeal is taken up for disposal at the admission stage itself, since the disposal of the case will not affect the rights of the respondents in any manner.

4. The learned counsel for the appellant has submitted that though the age, avocation and the status of the claimant were disputed by the appellant before the Tribunal, the Tribunal has

not considered the same but has awarded the compensation at a very higher rate; that the compensation awarded is not in consonance with the settled principles of law; that the pecuniary loss assessed at Rs.12,77,640/- is neither warranted nor justified and the ultimate compensation awarded is untenable and does not match with the evidence on record.

5. A perusal of the award of the Tribunal would establish the fact that there is no contra evidence adduced by the appellant herein to show that the lorry driver was not at fault. The Tribunal has also rightly taken note of the differences between the preponderance of probabilities and the proof beyond reasonable doubt which is a sine qua non on civil and criminal liabilities. Also, the Tribunal has taken note of the best evidence as a conclusive proof and in order to describe the evidentiary value of such evidence, the party opposing (the appellant herein) is expected to lead evidence to prove that either such admission was not made or that such a fact admitted therein is not true. The stronger proof needed in such case is not available in this case. Hence, the Tribunal has ultimately fastened the liability on the appellant herein. These findings by the Tribunal cannot be brushed aside easily. No new fact/evidence have been adduced by the appellant herein to assail such findings. Though the appellant herein has marked Ex.R1 to R5 before the Tribunal, the same are not related to the manner of accident or no fault on the part of the appellant herein. In such view of the mater, the findings on negligence by the Tribunal are confirmed as such.

Quantum:

6. The Tribunal has taken the monthly income of the deceased at Rs.6,500/- relying upon the decision in the case of National Insurance Company Limited versus Pranay Sethi & Others reported in 2017 (2) TNMAC 609 (SC) and added 40% towards future prospective increase in income and has arrived at the sum of Rs.9,100/- towards monthly income and has calculated the total loss of income at Rs.12,77,640/-, by adopting 18 multiplier and taking note of 65% functional disability. Further, towards pain and sufferings, loss of discomfort in life, medical expenses, replacement of artificial leg, transport, extra nourishment, cost for attendant and for damages to dress, the Tribunal has awarded sums of Rs.50,000, Rs.50,000, Rs.1,91,161, Rs.75,000, Rs.7,500, Rs.5,000, Rs.10,000, Rs.500 respectively and in total a sum of Rs.16,66,801/-.

7. This Court is of the view that the quantum arrived at by the Tribunal for the injured aged 23 is perfectly valid and does not require any interference. Further, the Tribunal has rightly taken note of the settled principles of law, weightage of evidence and probabilities of case while arriving at the

quantum. The Appeal filed by the Insurance Company is devoid of merits and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant / Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, forthwith, through RTGS.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

srk

To

The Special Subordinate Judge No.2,
Motor Accidents Claims Tribunal
Salem.

+1 CC to Mr.M.B. Gopalan Associates sr 84124.

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SV(CO)
SP(14/08/2020)