

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1049 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

The New India Assurance Company Ltd.,
M.L.Complex, First Floor, 10/11,
Church, Dharapuram.

...Appellant/2ndRespondent/
Respondent in Tribunal

Vs.

1. Angamuthu
2. Kumaravel

... Respondents/Petitioner and
First Respondent in Tribunal

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.597 of 2009, dated 23.12.2010, on the file of the Motor Accidents Claims Tribunal, Sub Court, Dharapuram.

For Appellant : Mr.R.Sivakumar

For R1 : Mr.Lokesh
for Ma.P.Thangavel

For R2 : Set exparte

JUDGMENT

The Insurance Company is the appellant in this appeal. It is aggrieved by the impugned Judgment and Decree dated 23.12.2010 passed by the Motor Accident Claims Tribunal (Sub Court), Dharmapuri in M.C.O.P.No.597 of 2009.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.4,88,000/- as compensation to the claimant together with interest at 7.5% from the date of filing the Claim Petition till the date of deposit. In this Appeal, the Appellant/Insurance Company has questioned the amount of

Rs.2,40,000/- awarded on account of loss of earning power.

3.Compensation awarded by the Tribunal are under the following heads:-

Heads	Amount awarded
Loss of Income for 6 months	Rs. 18,000/-
Transport	Rs. 5,000/-
Extra Nourishment	Rs. 5,000/-
Pain and Suffering	Rs. 20,000/-
Loss of earning Power	Rs.2,40,000/-
Medical Expenses	Rs.2,00,000/-
Total	Rs.4,88,000/-

4. In the Appeal, the Insurance Company has questioned the amount of Rs.2,40,000/- awarded towards loss of earning power of the claimant on the ground that, in the impugned judgment and decree, the Tribunal has not given proper reasons for awarding the aforesaid amount.

5. Heard Mr.R.Sivakumar for the learned counsel for the Appellant/Insurance Company and Mr.Lokesh for Mr.Ma.P.Thangavel, learned counsel appearing for the 1st Respondent/Claimant.

6. I have perused the impugned judgment and decree passed in M.C.O.P.No.597 of 2009. I have also perused the records which consists of the expenses incurred by the Respondent/Claimant and the evidence adduced by five witnesses, who were examined on behalf of the Respondent/Claimant.

7. The Insurance Company has neither marked any document nor examined any witness to disprove the nature of injury suffered by the Respondent/claimant.

8. The Tribunal has given a categorical finding that, the injury compromised the quality life of the Respondent/Claimant. It is noticed that the Respondent/Claimant was an Agriculturist and therefore, the nature of injury suffered by him may have compromised his earning capacity. Therefore, the compensation awarded by the Tribunal appears to be reasonable on the above heads.

9. The Appellant/Insurance Company is therefore directed to deposit the amount of compensation awarded by the Tribunal together with interest at 9% per annum from the date of filing of the Claim Petition till the date of such deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this judgment.

10. In the light of the above observations, I find no reason to interfere with the amount awarded by the Tribunal in the impugned judgment and decree. Accordingly, the Civil Miscellaneous Appeal filed by the Appellant/Insurance company is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jas

Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

The Motor Accidents Claims Tribunal/
Subordinate Judge, Sub Court,
Dharapuram.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.36991
+1cc to Mr.R.Sivakumar, Advocate, S.R.No.36843

C.M.A.No.1049 of 2011
and
M.P.No.1 of 2011

CNR(CO)
CB(26/04/2021)