

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1136 of 2013
and M.P.No.1 of 2013

The Oriental Insurance Co. Ltd.,
Branch Office, No.25-C, Arunagiri Complex,
3rd Floor, Bye-pass Road, Hosur.

...Appellant/
2nd Respondent

vs.

1.Srinivasamurthy ...Respondent/Petitioner
2.C.Venugopal
(Notice dispensed with for the 2nd respondent who remained
exparte) ...Respondents/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988, against the Judgment and Decree made
in MACT.OP.No.151 of 2009 on the file of the Motor Accidents
Claims Tribunal (Principal Subordinate Judge) at Krishnagiri
dated 26.7.2012.

For Appellant : Mr.M.Krishnamoorthy
For Respondents : Mr.M.Sriram for R1
R2 -Exparte

JUDGMENT

(This appeal was heard through Video Conferencing)

This appeal has been filed by the Appellant Insurance
Company challenging the Award dated 26.07.2012 passed by the
Motor Accident Claims Tribunal (Principal Subordinate Judge),
Krishnagiri in MACT.OP.No.151 of 2009.

2.The Appellant Insurance Company has challenged the
impugned Award only questioning the quantum of compensation
assessed by the Tribunal and they have also not challenged the
Award as regards the finding of negligence as against the
insured vehicle.

3.Heard Mr.M.Krishnamoorthy, learned counsel for the
Appellant and Mr.M.Sriram, learned counsel for the first
respondent. The learned counsel for the second respondent has

remained exparte both before the Tribunal as well as before this Court.

4.The Tribunal under the impugned Award has directed the Appellant Insurance Company to pay the claimant a sum of Rs.1,80,420/- as compensation for the injuries sustained by the first respondent as a result of an accident caused by the insured vehicle.

5.The details of the impugned Award are as follows:

For his 35% disability	-	Rs.70,000/-
Pain and suffering	-	Rs.20,000/-
Medical Bill	-	Rs.16,920/-
Ambulance Bill	-	Rs.5,500/-
Nutrition attender	-	Rs.10,000/-
Temporary loss of earning	-	Rs.48,000/-
Future treatment	-	Rs.10,000/-

Total		Rs.1,80,420/-

6.Before the Tribunal, the claimant has filed 10 documents which were marked as Exs.A1 to A10 and two witnesses were examined on his side namely PW1, the claimant himself and PW2, the Doctor who examined him. On the side of the Appellant Insurance Company, neither any document was filed nor any witness examined. In order to prove his salary, the claimant has filed a salary slip which has been marked as Ex.A8. In accordance with the salary slip Ex.A8, the Tribunal has also assessed the monthly income of the claimant at Rs.8,000/- per month.

7.No contra evidence has been produced by the Appellant/Insurance Company before the Tribunal to prove the salary slip Ex.A8. Therefore, the Tribunal has rightly assessed the monthly income of the claimant at Rs.8,000/- per month.

8.The first respondent/claimant sustained injuries as a result of the accident caused by the insured vehicle. The nature of the injuries sustained by the first respondent are as follows:

- a) Tendras over the right side of the chest with abrasion over the shoulder balde region
- b) Different tendras over the abodmen
- c) Abrasion over the left knee
- d) Multiple Rib Fracture
- e) Right PNEUMO HAEMOTHORAX

9.The disability certificate which has been marked as Ex.A9 has assessed the disability of the first respondent/claimant at 35% which has been accepted by the

Tribunal. Accordingly, a sum of Rs.70,000/- has been awarded as disability compensation calculated at Rs.2,000/- per percentage of disability. Considering the year of the accident, the said assessment is in order and does not call for any interference by this Court.

10.This Court after considering the nature of injuries sustained by the first respondent/claimant is of the view that the compensation awarded by the Tribunal under various other heads as indicated earlier is a just compensation.

11.With regard to the contention of the Appellant that there is no documentary evidence filed before the Tribunal to support the contention of the claimant that he had suffered loss of earning for six months due to the injuries sustained as a result of the accident is concerned, this Court is of the considered view that the claimant being a production unit operator and in view of undisputed fact that he had sustained multiple rib fractures it would not have been possible for him to do his regular work before as an operator for a period of six months from the date of the accident. Further, as seen from the impugned Award, the Tribunal has not awarded any amount towards attender charges and loss of amenities and therefore, the contention of the Appellant Insurance Company that the compensation is excessive, cannot be accepted by this Court and it has to be rejected.

12.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal. Accordingly, the appeal shall stand dismissed.

13.The Appellant Insurance Company submits that the entire Award amount has already been deposited pursuant to the direction given by this Court in M.P.No.1 of 2013 in CMA.No.1136 of 2013 dated 25.06.2013. In view of the said submission, the claimant/first respondent is permitted to withdraw the Award together with accrued interest by filing an appropriate application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal
(Principal Subordinate Judge), Krishnagiri.

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

C.M.A.No.1136 of 2013

RLD(CO)
CB(19/12/2020)



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