

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.982 of 2007

and

M.P.No.2 of 2007

(Through Video Conferencing)

New India Assurance Co. Ltd.,
rep. by Edathil Building,
Thoppunpady, Cochi-5. ... Appellant/Respondent III

Vs.

1.M.Dakshayani

2.M.Sharief

3.Arjunan ... Respondents/Respondents 1 & 2

(2nd and 3rd respondents were set exparte
before the lower court)

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988, against the Judgment and Decree of the
learned Motor Accidents Claims Tribunal (I Additional District
Court) at Krishnagiri, Dharmapuri District, made in
M.A.C.T.O.P.No.990 of 2004 dated 28.03.2006.

For appellant : Mr.K.Mohan

For 1st respondent : Mr.C.Ramkumar

J U D G M E N T

The Insurance Company is the appellant in this Civil
Miscellaneous Appeal. It is aggrieved by the impugned Judgment
and Decree dated 28.03.2006 passed by the Motor Accidents
Claims Tribunal (I Additional District Court), Krishnagiri,
Dharmapuri District, in M.A.C.T.O.P.No.990 of 2004.

2. By the impugned Judgment and Decree, the Tribunal has
awarded a sum of Rs.4,60,000/- to the 1st respondent as

compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit and proportionate costs. The Tribunal has awarded the aforesaid compensation under the following heads:-

Heads	Amount
Loss of future earning per month (5,000 x 40/100) : Rs.2,000/- Per annum (2,000 x 12) : Rs.24,000/- Multiplier 15 (24,000 x 12) : Rs.2,88,000/-	Rs.2,88,000/-
Loss of income during the period of treatment (5,000 x 3)	Rs. 15,000/-
Medical Expenses	Rs. 50,760/-
Attendar Charges	Rs. 3,000/-
Extra Nourishment	Rs. 3,190/-
Transportation Expenses	Rs. 2,000/-
Pain and Sufferings	Rs. 50,000/-
Permanent Disability (40 x 1000)	Rs. 40,000/-
Loss of amenities	Rs. 8,000/-
Total	Rs.4,60,000/-

3. It is submitted on behalf of the appellant that the amount of compensation awarded by the Tribunal was exorbitant and was liable to be reduced. It is further submitted that the amount of Rs.2,88,000/- awarded towards loss of future earning was unwanted for the injuries suffered.

4. I have considered the evidence on record, the claim petition filed by the 1st respondent/claimant.

5. The 1st respondent/claimant was aged about 51 years at the time of accident. The 1st respondent/claimant was working as an Additional Public Prosecutor (counsel) and Notary Public, Hosur and was earning a sum of Rs.20,000/- per month. Due to the accident, there were fractures to her 5th, 6th & 7th ribs and the dental injuries as a result of which 14 of teeth were removed. The physician (Doctor) assessed the permanent disability as 50%. The Tribunal has taken 40% permanent disability of the 1st respondent/claimant while awarding the compensation to him. The Tribunal has adopted the notional income of the deceased as 5,000/- per month for awarding the aforesaid compensation.

6. Though two different wound certificates were procured by the 1st respondent/claimant to justify and substantiate the claim, the evidence of P.W.2 indicates serious injuries. However, they would not have resulted either in permanent or permanent partial disability. However, the injuries would have put the 1st respondent out of action for at least 12 months as the fracture to the rib takes time to heal. Considering the same, I am inclined to award compensation towards loss of income during the treatment of the 1st respondent/claimant by adopting the notional income of Rs.10,000/- per month as against Rs.20,000/- per month claimed by her in absence of any evidence to substantiate the income. Accordingly, there shall be an enhancement of compensation on account of income. Therefore, a sum of Rs.1,20,000/- (12 x 10000) is awarded towards loss of income during the treatment.

7. Considering the nature of injury suffered by the 1st respondent/claimant, I am inclined to award higher amount of compensation towards disability at Rs.2,000/- per percentage in the injuries assessed. In other words, there shall be an enhancement of compensation of Rs.80,000/- (40 x 2000) for the injury.

8. Since the injuries suffered by the 1st respondent/claimant would have been excruciating and painful in the chest and in the abdominal area, I am also inclined to award a sum of Rs.50,000/- towards pain and sufferings. Apart from the above, there shall be an enhancement of the amounts awarded towards transport expenses and extra nourishment as Rs.15,000 and Rs.25,000/- respectively. The amounts awarded towards medical expenses is upheld. Since the appellant lost 14 teethes due to the accident and since she is required to undergo regular dental checkup, a sum of Rs.50,000/- is awarded towards loss of amenities.

9. Therefore, the amount of Rs.4,60,000/- is to be partially as compensation awarded by the Tribunal is re-quantified as follows:-

Heads and Calculation	Amount of compensation
Loss of income during the treatment (10000 x 12)	Rs.1,20,000/-

Heads and Calculation	Amount of compensation
Injury (40 x 2000)	Rs. 80,000/-
Pain and Sufferings	Rs. 50,000/-
Transport Expenses	Rs. 15,000/-
Extra Nourishment	Rs. 25,000/-
Medical Expenses	Rs. 50,760/-
Attender Charges	Rs. 15,000/-
Loss of amenities	Rs. 50,000/-
Total	Rs.4,05,760/-

10. Therefore, the appellant Insurance Company is directed to deposit the re-quantified amount of Rs.4,05,760/- together with interest at 7.5% p.a. from the date of claim petition till the date of deposit and proportionate costs, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit, the 1st respondent/claimant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filing suitable application before the Tribunal.

12. If the appellant Insurance Company has deposited any amount in excess of above re-quantified amount of compensation determined by this Court, it is permitted to withdraw the excess amount together with interest accrued thereon, by filing suitable applications before the Tribunal.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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To:-

The Motor Accidents Claims Tribunal
(I Additional District Court),
Krishnagiri, Dharmapuri District.

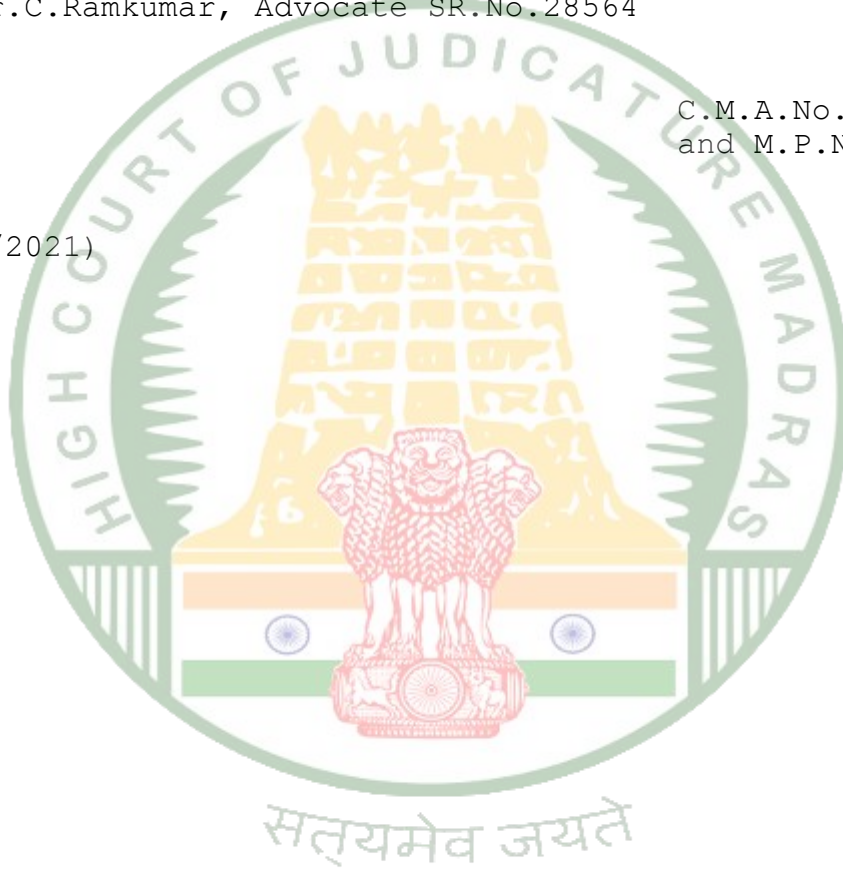
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The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.C.Ramkumar, Advocate SR.No.28564

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and M.P.No.2 of 2007

BS (CO)
GMY (13/05/2021)



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