

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.18.08.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.1782 of 2012
&
M.P.No.1 of 2012

Reliance General Insurance Company Ltd.,
Reliance House,
Motor Third Party Claims Office,
VI Floor, Haddown Road,
Chennai - 600 005.

... Appellant/2nd Respondent

vs.

1.Aruna Prabhu Ram ... 1st Respondent/ Petitioner
2.Vellaaisamy ... Respondents.1st Petitioner
(2nd respondent ex parte
before the Lower court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.4615 of 2008 dated 01.02.2011 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.E.Rajadurai,
for Mr.N.Vijayaraghavan
For Respondent 1 : Mr.P.Raja

R2- Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This appeal has been filed by the Appellant Insurance company challenging the award dated 01.02.2011 passed by the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai in MCOP.No.4615 of 2008.

2. It is the contention of the Appellant that the quantum of compensation awarded by the Tribunal to the first respondent/claimant is excessive. The first respondent/claimant sustained injuries on 15.11.2008 as a result of an accident caused by a vehicle insured with the Appellant.

3. The adverse finding of negligence against the driver of the vehicle insured with the Appellant has now attained finality, since the present appeal has been filed questioning only the quantum of compensation awarded by the Tribunal.

4. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award Amount (Rs.)
Disability compensation	4,22,400/- (22,000 x 12 x 16 x 10/100)
Pain and suffering	20,000/-
Medical expenses	15,000/-
Acupuncture Treatment	20,000/-
Extra nourishment	3,000/-
Transportation	1,000/-
Damages to cloth	1,000/-
Loss of income	66,000/-
Future medical expenses	80,000/-
Total	6,28,400/-

5. The first respondent/claimant sustained the following injuries namely (a) crush injury in the right leg: Open Grade III Ankle Joint Tarsal area with Avulsion of skin, tendons and loss of medial cuneiform bone, (b) crush injury in the right hand: Index fracture ppx Neck (closed), Mid fracture ppx (open), Little finger fracture ppx base and metacarpal neck (closed) as a result of the accident caused by the insured vehicle.

6. Before the Tribunal, the first respondent/claimant has filed twelve documents which were marked as Ex.P1 to Ex.P12 and two witnesses were examined on her side namely the first respondent/claimant herself as PW1 and the Doctor who examined her as PW2. On the side of the Appellant/Insurance company, neither any document was filed nor any witness examined, before the Tribunal.

7. The first respondent/claimant was hospitalised between 15.11.2008 and 01.12.2008 and she had to undergo two surgeries. The discharge summary issued by the Hospital also confirms the

nature of injuries sustained by the first respondent/claimant and the treatment underwent by her. The nature of injuries sustained by the first respondent/claimant has also not been disputed by the Appellant/insurance company before the Tribunal as seen from the evidence available on record. The first respondent/claimant has filed the discharge summary Ex.P2, O.P. record Ex.P3, Photographs with CD Ex.P7 and disability certificate Ex.P11 issued by PW2.

8. The Doctor PW2 has assessed the disability of the first respondent/claimant at 45% i.e., 20% for the hand and 25% for the leg. After taking into consideration the disability certificate issued by PW2 which was marked as Ex.P11, the Tribunal has assessed the whole body disability of the first respondent/claimant at 10%. The Tribunal after giving due consideration to the nature of injuries sustained by the first respondent/claimant has rightly applied the multiplier method for assessing the disability compensation.

9. The first respondent/claimant was a private school teacher and was earning Rs.27,000/- per month at the time of the accident which is supported by the salary slip Ex.P5. However, the Tribunal taking into consideration the net pay of the first respondent/claimant assessed her monthly salary at Rs.22,000/-. The Tribunal has also observed as seen from Ex.P7 that the injuries sustained by the first respondent/claimant are grievous in nature and that her foot from ankle is deformed giving an ugly look. The Tribunal has also observed that the photographs of the first respondent/claimant gives an indication that her right leg below the ankle seems to be dead and buried practically and also gives an impression that the right foot is affixed to the right leg. As seen from Ex.P11 disability certificate, the first respondent/claimant had sustained fracture of bones in two fingers of the right hand for which steel rods were implanted and later on removed. PW2 Doctor has also deposed that due to the said injuries, the grip of the right hand of the first respondent/claimant has been reduced and the injury has created a scar on her. As part of the surgery performed on the first respondent/claimant, wires have been implanted in the body of the first respondent/claimant which were subsequently removed and skin grafting have also been done on her. The first respondent/claimant was aged 37 years at the time of the accident and the correct multiplier to be adopted for assessing the disability of compensation is 15 multiplier but the Tribunal has erroneously applied 16 multiplier. However, the Tribunal ought to have awarded higher compensation towards other heads and if it were granted, the total compensation awarded by the Tribunal under the impugned award will be more or less same if the correct multiplier of 15 was applied

10. The Tribunal has granted Rs.20,000/- towards pain and suffering, Rs.15,000/- towards medical expenses, Rs.20,000/- towards Acupuncture treatment, Rs.3,000/- for extra nourishment, Rs.1,000/- for transportation, Rs.1,000/- towards damages to cloth and Rs.66,000/- was also awarded towards loss of income during the period of treatment calculated at Rs.22,000/- per month for a period of three months to the first respondent claimant due to the injuries sustained by her.

11. Insofar as future medical expenses are concerned, the first respondent/claimant has filed documentary evidence Ex.P4 and the Tribunal has rightly accepted the same, considering the nature of injuries sustained by the first respondent/claimant. Since the compensation awarded by the Tribunal to the first respondent/claimant towards pain and suffering, extra nourishment charges and transportation costs is low and in view of the fact that the Tribunal has also not awarded any compensation towards loss of income and attender charges, the erroneous application of wrong multiplier by the Tribunal i.e., applying 16 multiplier instead of 15 multiplier will not have any bearing in the overall assessment of compensation made by the Tribunal under the impugned award.

Conclusion:

12. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal is dismissed. No costs. The Appellant insurance company is directed to deposit the amount awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.4615 of 2008 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 award amount along with accrued interest lying to the credit of MCOP.No.4615 of 2008 to the bank account of the first respondent/claimant within a period of two weeks thereafter. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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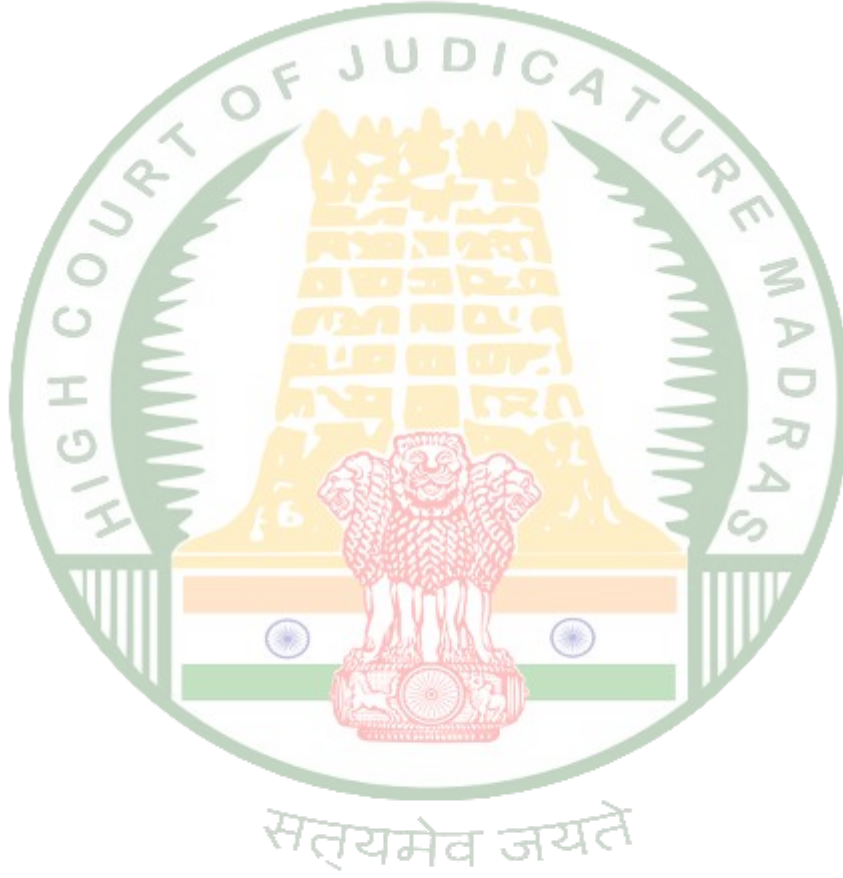
To

1.The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

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

C.M.A.No.1782 of 2012

A.SK(21.01.2021)



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