

C.M.A.No.3095 of 2011

C.SARAVANAN, J.

This case is listed today under the caption 'for being mentioned' as there are certain transcription errors in the final order.

2. The learned counsel for the appellant/Insurance Company submits that the over all compensation awarded by the Tribunal was reduced to Rs.60,000/- when the order was pronounced in the open Court on 14.08.2020. However, there is some variance in the final order. The learned counsel for the respondents also confirms the same.

3. In view of the above, from Paragraph Nos. 2 to 5, 7 & 8 are partially modified as follows:-

“2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.71,000/- together with interest at 7.5% from 06.08.2007 to 17.05.2011. The case of the first respondent before the claims Tribunal was that, she met with an accident due to the insured motor cycle belonging to the second respondent herein on 29.12.2006 at about 07.30 p.m.

3. It was stated that the first respondent/claimant suffered the following injuries due to the accident:-

1. A sutured wound over the chin 3x1 c.m.
2. An abrasion of 2x1 c.m over the lower lip.
3. Shaking of upper incisor tooth.
4. An abrasion of 5x3 c.m over left elbow.
5. An abrasion of 3x2 c.m over right knee.
6. An abrasion of 3x3 c.m over right thigh.

That apart, it was stated that the first respondent/claimant was pregnant at the time of injury and due to the accident her 7 months foetus was aborted.

4. It is stated that the first respondent/claimant underwent treatment only as an outpatient in a private clinic at Dharmapuri for a period of 4 months and had incurred a medical expenses of Rs.20,000/-. The Tribunal after considering the evidence on record has awarded a sum of Rs.71,000/- under the following heads:-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal
1	Permanent Disability	Rs.20,000/-
2	Injuries	Rs.30,000/-
3	Pain & Suffering	Rs.10,000/-
4	Mental Agony	Rs. 5,000/-
5	Transportation	Rs. 2,000/-
6	Extra Nourishment	Rs. 2,000/-
7	Loss of Amenities	Rs. 2,000/-
Total		Rs.71,000/-

5. The learned counsel for the Appellant Insurance Company submits that the Tribunal ought not to have awarded a sum of Rs.30,000/- towards injury. It is further submitted that the impugned Judgment and Decree is contrary to the decision of the Division Bench of this Court in the case of **The United India Insurance Company Limited Vs Veluchamy and another**, 2005 (1) TNMAC 87. It is further submitted that the compensation awarded towards mental agony also cannot be sustained as the first respondent/claimant has not produced any evidence to substantiate that she suffered abortion due to the accident.

7. Considering the over all facts and circumstances of the case, I am inclined to partially modify the award amount in the impugned Judgment and Decree passed by the Tribunal. The compensation of Rs.20,000/- awarded towards disability is upheld. At the same time, the amount of Rs.10,000/- awarded towards pain and suffering is confirmed. The amount of Rs.30,000/- awarded towards injuries is reduced to Rs.20,000/- and similarly amount of Rs.2,000/- awarded towards transportation is reduced to Rs.1,000/-. Amount awarded under other headings appears to be reasonable. In the result, the over all compensation awarded by the Tribunal is restricted to Rs.60,000/-. The other observations in the impugned Judgment insofar as the pay and recovery is concerned is not disturbed in this Judgment.

8. Therefore, the Appellant Insurance Company is directed to deposit an amount of Rs.60,000/-, together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgment and may recover the same from the second respondent i.e., the owner of the vehicle in accordance with law.”

4. The Registry is directed to carry out the necessary corrections and re-issue order copy to the respective learned counsel appearing for the parties.

18.06.2021

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