

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3298 of 2012

and

M.P. No.1 of 2012

United India Insurance Co. Ltd.,
Branch Office,
No.3, 4th Floor,
BOB Building,
State Bank Road,
Coimbatore - 641 018.

...Appellant/3rd Resopondent
in Tribunal

vs.

1. M.Vijayalakshmi
2. N.Ranjith Kumar
3. V. Murugan

...1st Respondent/ Petitioner
...2nd & 3rd Respondents/
Respondents 1 & 2 in Tribunal

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated in M.C.O.P.No.830 of 2009, dated 23.09.2011 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Coimbatore.

For Appellant : Mr.E.Rajadurai
for M/s.N.Vijayaraghavan
For Respondents : R1 - Served - No appearance
R2 & R3 - exparte

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 23.09.2011 passed by the Motor Accidents Claims Tribunal, (Principal Subordinate Court), Coimbatore in MCOP No.83 of 2009.

2. The first respondent sustained injuries as a result of an accident on 08.06.2009 caused by a vehicle, owned by the third respondent and insured with the Appellant / Insurance Company. She preferred a claim before the Motor Accidents

Claims Tribunal (Principal Subordinate Court), Coimbatore in MCOP No.830 of 2009 seeking compensation of Rs.5,00,000/- for the injuries sustained by her as a result of the accident.

3. The Motor Accidents Claims Tribunal, (Principal Subordinate Court), Coimbatore under the impugned award directed the appellant to pay the first respondent / claimant a compensation of Rs.3,60,034/- together with interests and costs, as detailed hereunder :-

Heads	Amount awarded by the Tribunal (Rs.)
Medical expenses	1,50,534
Transportation	5000
Pain and suffering	15000
Nutrition	5000
Permanent Disability	1,62,000
Loss of earning	13500
Attender charges	9000
Total	3,60,034

4. The appellant / Insurance Company has challenged the award only on the ground the quantum of the compensation awarded to the first respondent / claimant is excessive and the Tribunal ought not to have adopted the multiplier method in assessing the compensation.

5. Heard Mr.E. Rajadurai, learned counsel for the appellant. Despite service of notice on the second respondent, there is no appearance on her side. The second and third respondents have remained ex-parte both before the Tribunal as well as before this Court.

6. This Court has perused the materials and evidence available on record before the Tribunal.

8. Before the Tribunal, the first respondent / claimant has filed 18 documents which were marked as Exs.P1 to P18 and three witnesses were examined on her side viz., the first respondent / claimant herself as PW1 and the Doctor who examined her as PW2 and the Accountant of the employer of the first respondent / claimant as PW3. On the side of the appellant / Insurance company neither any document was filed nor any witness was examined before the Tribunal.

9. In the claim petition, the first respondent/ claimant has pleaded that she was earning Rs.10,058/- as Principal in Mani

Nursery Primary School and she was aged 38 years at the time of the accident. The salary certificate of the first respondent / claimant was also marked as Ex.P17 before the Tribunal. The Accountant, Anantha Padmanabhan of Mani Nursery Primary school in which the first respondent was employed as Principal was also examined as a witness (PW3). However, the Tribunal has fixed the monthly income of the first respondent / claimant on notional basis. The notional monthly income of the first respondent / claimant fixed by the Tribunal as seen from the impugned award is Rs.4,500/-. The Tribunal has also erroneously deducted 1/3rd towards personal expenses of the first respondent / claimant which ought not to have been made since it is an injury claim and not a fatal accident claim. The first respondent / claimant has sustained the following injuries :

- a) Fracture shaft of right humerus
- b) Inter costal drainage right side chest
- c) Multiple fracture of right side ribs
- d) Contusion in the right lung - lower lobe
- e) Minimal right side plural effusion
- f) Normal left lung and left side ribs
- g) Minimal subcutaneous emphysema right side chest wall

10. She was in the hospital for the period from 08.06.2009 to 22.06.2009 i.e., for a period of 15 days, as seen from the discharge summary issued by the hospital (Ex.P7). Having sustained grievous injuries and having been hospitalised for a long period of time, this Court is of the considered view that the Tribunal has rightly adopted the multiplier method in assessing the compensation payable to the first respondent / claimant. The assessment of the notional monthly income of the first respondent / claimant at Rs.4,500/- cannot be considered to be excessive as the first respondent / claimant has herself produced her salary certificate, Ex.P17 which discloses that she was earning Rs.10,058/- p.m. but the Tribunal has fixed the same only at Rs.4,500/-. सत्यमेव जयते

11. Apart from the above, the Tribunal has awarded compensation to the first respondent / claimant under the following heads :

- a) Medical expenses, b) Transportation, c) Pain and suffering, d) Nutrition, e) Permanent Disability, f) Loss of earning and Attender charges.

After giving due consideration to the nature of the injuries sustained by the first respondent / claimant and the long period of her hospitalisation, this Court is of the considered view that the compensation awarded by the Tribunal under the

aforementioned heads cannot be considered to be excessive as alleged by the Appellant / Insurance company.

10. For the foregoing reasons this Court does not find any infirmity in the findings of the Tribunal. Therefore, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.830 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Coimbatore. 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 directly to the bank account of the first respondent /claimant through RTGS, within a period of two weeks thereafter.

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Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Principal Sub Judge,
Motor Accidents Claims Tribunal,
Coimbatore.

Copy To:

The Section Officer,
V.R. Section,
Madras High Court.

GP(CO)

RMP(11/05/2021)

C.M.A.No.3298 of 2012

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