

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3284 of 2013
and M.P.No.1 of 2013

The Branch Manager,
M/s.Oriental Insurance Co. Ltd.,
Branch Office,
II Floor, Bypass Road,
Hosur - 635 109.Appellant/3rd Respondent

vs.

1.Tmt.R.Kokila ..1st Respondent/Claimant
2.Thiru.M.Ravi ..1st Respondent/1st Respondent
3.Thiru.P.Jagadeesh Babu ...3rd Respondents/ Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.351 of 2013 dated 08.04.2013 on the file of the Learned Motor Accidents Claims Tribunal, (Special Sub Judge) at Krishnagiri.

For Appellant : Mr.J.Chandran
For Respondents : M/s.Mukund R.Pandiyan for R1
R2 - died - steps due
II Batta with petition due - R3

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Insurance Company challenging the Award dated 08.04.2013 passed by the Motor Accident Claims Tribunal, (Special Sub Judge) at Krishnagiri, in M.C.O.P.No.351 of 2013.

2.Heard Mr.J.Chandran, learned counsel for the Appellant and Mr.Mukund P.Pandiyan, learned counsel for the first respondent. Since this Court is confirming the Award, notice to the respondents 2 and 3 are dispensed with.

3.The Appellant Insurance Company has challenged the Award primarily on the ground that the quantum of compensation awarded by the Tribunal is excessive.

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

Loss of earning capacity	-	Rs.2,26,800/-
Pain and suffering	-	Rs.50,000/-
Partial loss of income	-	Rs.27,000/-
Medical expenses	-	Rs.1,46,295/-
Future medical expenses	-	Rs.50,000/-
Extra nourishment and Transport expenses	-	Rs.20,000/-
Attender charges	-	Rs.5,000/-

Total		Rs.5,25,095/-

5.Before the Tribunal, the first respondent/claimant has filed 8 documents which were marked as Exs.P1 to P8 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.

6.The Doctor (PW2) who examined the first respondent/claimant has assessed the disability at 45%. The nature of injuries sustained by the first respondent/claimant are indeed grievous in nature having sustained head injuries. The Tribunal has rightly adopted the multiplier method in assessing the compensation towards loss of earning capacity of the claimant.

7.The first respondent/claimant sustained the following grievous injuries as a result of the accident:

(a) Type I fracture both bones of right forearm (open fracture).

(b) Head injury - fracture of right zygoma.

8.The first respondent was aged 39 years and was working at Vasavi Transport, Hosur. She sustained injuries on 11.10.2008 as a result of the accident and in her claim petition she had pleaded that she was earning Rs.7,500/- per month at the time of the accident. The age and avocation of the first respondent/claimant has not been disputed by the Appellant Insurance Company before the Tribunal as seen from the evidence available on record. However, since no documentary evidence has been produced by the first respondent/claimant before the Tribunal to substantiate her monthly income, the Tribunal has assessed the monthly income of the first respondent/claimant on notional basis at Rs.4500/-. The year of the accident is 2008. Considering the year of the accident, it cannot be said that the assessment made by the Tribunal with regards to the notional monthly income of the first respondent/claimant is an unreasonable assessment.

9.The first respondent/claimant was hospitalized between 11.10.2008 to 22.10.2008 as seen from the discharge summary issued by Sparsh Hospital, Bangalore (Ex.P3). The medical bills alone works out to Rs.1,46,295/- which will reveal the injuries sustained by the first respondent/claimant are grievous in nature which would have certainly impacted her from doing her routine work. The Tribunal has awarded a compensation of Rs.50,000/- towards pain and suffering, Rs.27,000/- towards loss of income during the period of treatment, Rs.50,000/- towards future medical expenses, Rs.20,000/- towards extra nourishment and transportation charges and another sum of Rs.5,000/- towards attender charges which in the considered view of this Court cannot be treated to be an unreasonable compensation as alleged by the Appellant Insurance Company.

10.This Court is of the view that the Tribunal has rightly considered the age, avocation and injuries sustained while assessing the compensation payable to the first respondent/claimant under the impugned Award.

11.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

12.Accordingly, the appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 6% p.a. from the date of the claim till the date of realization to the credit of M.C.O.P.No.351 of 2013, on the file of the Motor Accidents Claims Tribunal, (Special Sub Judge) at Krishnagiri, 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 with accrued interest lying to the credit of M.C.O.P.No.351 of 2013 to the bank account of the first respondent/claimant, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pam
To

1.The Motor Accidents Claims Tribunal,
(Special Sub Judge) at Krishnagiri.

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

+1cc to Mr.J.Chandran, Advocate SR.No. 28765

C.M.A.No.3284 of 2013