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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 13.10.2020	Pronounced on: 16.10.2020

Coram::

The HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

C.M.A.No.720 of 2016
& C.M.P.No.5868 of 2016

The United India Insurance Company Limited,
Rep. by Divisional Manager Vellore.
... Appellant/2nd Respondents

/versus/

1. Minor Parkavi,
D/o.S.Sivaprakasam,
Rep. by father,
S.Sivaprakasam
residing at No.21, Ponneri Village Post
Tirupattur Taluk, Vellore District.

... 1st Respondents/1st Petitioner

2. N.Bhaskaran,
S/o.Nallathambi,
residing at No.29,
Lenin Nagar, 2nd Main Road,
Ambattur, Chennai - 600 053.
...2nd Respondents/1st Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying against the judgment and decree dated 29.07.2009 made in M.C.O.P.No.271 of 2007, on the file of the Motor Accident Claims Tribunal (Additional District Judge) (Fast Track Court) at Tirupattur, Vellore District.

For Appellant : Mrs.R.Sreevidhya,
for Mr.R.Ravichandran

For R1 : Mr.Pa.Sudesh Kumar,

For R2 : ex parte

JUDGMENT

(The case has been heard through video conference)
Heard the Learned Counsel for the appellant and the

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Learned Counsel for the respondent No.1.

2. This Appeal is filed by the Insurance Company aggrieved by the quantum of compensation awarded to the claimant.

3. According to the appellant, the Tribunal has erred in awarding disproportionate compensation to the claimant, without proper appreciation of the evidence and also erred in fastening the liability on the appellant without appreciating that the rider of the motorcycle was not duly licensed to drive the motorcycle with gear. The compensation awarded for the alleged disability is excessive and not in consonance with Schedule-I of the Workmen's Compensation Act.

4. This is a case where the claimant was on the pillion in the motorcycle driven her father by Sivaprakasam. She sustained injury, when the rider of the TVS Suzuki motorcycle bearing registration No.TN-20-S-3801 insured by the appellant, rash and negligently hit the motorcycle on which, the claimant was travelling as pillion rider. The claimant was 9 years old girl sustained injury and was admitted in C.M.C Hospital, Vellore, for further treatment, after giving first aid treated at Government Hospital Tirupattur. The injury sustained by the claimant are as below:-

(i).Closed Fracture right femur.
(ii). Closed Fracture right Tibia.
(iii). Closed Fracture right Fibula.

5. The Tribunal, on considering the evidence of the eye witness to the accident and the discharge summary issued by C.M.C Hospital, Vellore, along with medical bills and wound certificate, has awarded a sum of Rs.2,21,400/-. Under different heads as follows:- (i). For Medical expenses a sum of Rs.76,400/- (ii). For the disability of 55% a sum of Rs.1,10,000/- (iii). For the pain and sufferings and for mental agony, a sum of Rs.15,000/- was awarded. (iv). For Nutritious Food and attender charges, a sum of Rs.5,000/-each was awarded.

6. On perusing the evidence, this Court finds there is no excessive compensation for the injury sustained, except arithmetic error while calculating the compensation under various heads. There is an arithmetic error in the sum of compensation awarded by the Tribunal instead of Rs.2,11,400/-. Rs.2,21,400/- is wrongly awarded.

7. Pointing out the error and correcting the total compensation as Rs.2,11,400/- under different heads mentioned in the Tribunal, the Civil Miscellaneous Appeal is partly-Allowed.

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This Court holds that the claimant is entitled for a sum of Rs.2,11,400/- with interest @ 7.5% p.a from the date of petition till the date of realization. The appellant/Insurance Company shall deposit the modified award amount with interest within a period of 12 weeks from the date of receipt of a copy of this order less the amount already deposited if any. The Claimant is permitted to withdraw the award from the Court deposit, on filing proper application. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

bsm

To:

1. The Motor Accident Claims Tribunal,
   Additional District Judge,
   Fast Track Court at Tirupattu,
   Vellore District.

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

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PP(CO)
CT(15/09/2021)

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