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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1062 of 2015

and

M.P.Nos.1 & 2 of 2015

M/s. Oriental Insurance Co. Ltd.,
Subagovindam Building,
Imperial Road,
Cuddalore.

.. Appellant/2nd Respondent

Vs.

1.Mala
2.Sankar
3.S.Raja

...1st Respondent/Petitioner
...2nd Respondent/1st Respondent
...3rd Respondent/3rd Respondent

4.The ICICI Lombard General Insurance Co. Ltd.,
Chottabai Centre, 2nd floor,
Nungambakkam High Road,
Chennai - 600 034.

..4th Respondent/4th Respondent

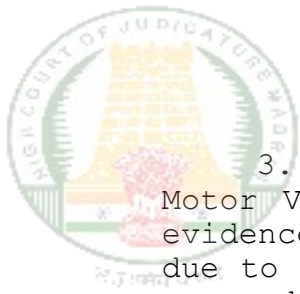
Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.579 of 2010 on 16.12.2014 on the file of the Motor Accident Claims Tribunal (II Additional Subordinate - Judge) at Cuddalore - District.

For Appellant	:	Mr.J.Chandran
For Respondent 1	:	Mrs.Ramya V. Rao
For Respondent 4	:	Ms.R.Sreevidhya
For Respondents 2 & 3	:	No Appearance

J U D G M E N T

The appeal has been filed by the Oriental Insurance Company challenging the award dated 16.12.2014 passed by the Motor Accident Claims Tribunal (II Additional Subordinate - Judge) at Cuddalore - District in MCOP.No.579/2010.

2. Heard, Mr.Chandran, learned counsel for the appellant / Oriental Insurance Company and Mrs.Ramya V. Rao, learned counsel for R1 and Ms. R. Sreevidya, learned counsel for R4.

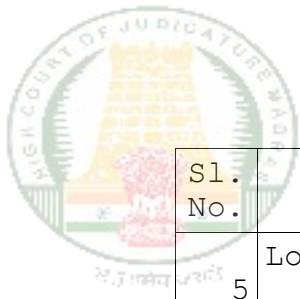


3. The claim petition is filed under Section 163(A) of the Motor Vehicles Act, 1988. Based upon the oral and documentary evidence, the Tribunal has held that the accident has occurred due to the rash and negligent driving of the driver of the first respondent, whose vehicle was insured with the Oriental Insurance namely the appellant herein. The Tribunal has awarded a sum of Rs.3,41,000/- as compensation. The said award is challenged by the Insurance Company on the point of quantum. As against the respondents 3 and 4, before the Tribunal, MCOP was dismissed.

4. After hearing the learned counsel for the appellant and the contesting respondent, since the case is filed under Section 163(A) of Motor Vehicles Act, the sum of Rs.35,000/- awarded by the Tribunal under the head pain and suffering is hereby modified and reduced to Rs.5,000/- and similarly, the sum of Rs.28,000/- awarded by the Tribunal under the head Medical expenses is hereby modified and reduced to Rs.15,000/-. The Tribunal awarded compensation under the heads Transport to hospital, Special diet, Loss of amenities and loss of disfigurement and the same are set aside. The Tribunal awarded compensation under the head loss of income for two months and the same is enhanced to loss of income for four months to the extent of Rs.20,000/-.

5. The learned counsel for the respondents claimants would contend that the loss of earning capacity Rs.2,25,000/- was awarded and made submissions there of. Since the future prospects was given for a petition filed under Section 163(A) of Motor Vehicle Act, to that extent the amount is reduced, and income is fixed at Rs.3,300/- as per the evidence of P.W.1. With regard to the injuries sustained, as per Ex.P4, the injuries are classified as grievous in nature and he has taken treatment in Apollo hospital as inpatient for three days and hence multiplier method is adopted. The adopted multiplier is 15 therefore, a loss of earning capacity is $3300 \times 12 \times 15 \times 25 / 100 = 1,48,500/-$. So far as the compensation awarded by the Tribunal under other heads are concerned, the same are modified to the extent as indicated infra.

Sl. No.	Heads	Tribunal Award	High Court	MODIFIED/CONFIRMED
1	Pain and sufferings	Rs.35,000/-	Rs.5,000/-	Modified
2	Medical expenses	Rs.28,000/-	Rs.15,000/-	Modified
3	Transport to hospital	Rs.5,000/-	Nil	Set aside
4	Special diet	Rs.5,000/-	Nil	Set aside



Sl. No.	Heads	Tribunal Award	High Court	MODIFIED/CONFIRMED
5	Loss of amenities	Rs.18,000/-	Nil	Set aside
6	Attendant charges	Rs.5,000/-	Nil	Set aside
7	Loss of earning capacity	Rs.2,25,000/-	Rs.1,48,500/-	Modified
8	Loss of income for two months	Rs.10,000/-	Rs.20,000/-	Modified
9	Loss of disfigurement	Rs.10,000/-	Nil	Set aside
	Total	Rs./- 3,41,000/-	Rs.1,88,500/-	

6. Consequently, the total compensation amount of Rs.3,41,000/- awarded by the Tribunal is hereby modified and reduced to Rs.1,88,500/-. The appellant/Insurance Company is directed to deposit the modified compensation amount of Rs.1,88,500/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made through RTGS. Thus, the award dated 16.12.2014, passed in M.C.O.P.No.579/2010, stands modified and C.M.A.No.1062/2015 stands allowed in part. Consequently, connected miscellaneous petitions are closed. No costs.

7. In view of the findings rendered above with regard to the negligence on the part of the vehicle that was insured with appellant, R4 is not liable to pay any compensation.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Motor Accidents Claims Tribunal,
(II Additional Subordinate - Judge)
Cuddalore District.



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

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+1cc to Mr.J.Chandran, Advocate, S.R.No.10141

+1cc to Mrs.R.Sree Vidhya, Advocate, S.R.No.10066

C.M.A.No.1062 of 2015 and
M.P.Nos.1 & 2 of 2015

GMR (CO)
CB (08/09/2021)