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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2863 of 2015
and M.P No.1 of 2015

The Branch Manager,
The Oriental Insurance Co. Ltd.,
Divya Towers, II Floor, Western Part,
Fort Main Road, Salem Taluk & District.

...Appellant/2nd Respondent

..Vs..

1.S.Mani @ Manikandan (Died) ... 1st Respondent/Petitioner

2.Selvam ...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MACTOP.No.3 of 2011, dated 26.11.2014 on the file of the Motor Accident Claims Tribunal, Sub Court at Attur.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : R-1 Died
R-2 Exparte

J U D G M E N T

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the appellant/Insurance company challenging the award dated 26.11.2014 passed by the Motor Accident Claims Tribunal, Subordinate Judge at Attur in MCOP No.3 of 2011.

2. Heard Mr.M.Krishnamoorthy, learned counsel for the appellant - Insurance Company and perused the materials available on record. The first respondent / claimant is reported dead.



3. The appellant has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal to the claimant is excessive. The Tribunal, in the impugned award, directed the appellant - Insurance Company to pay a compensation of Rs.2,63,807/- to the 1st respondent/claimant, as detailed hereunder -

Heads	Award Amount (Rs.)
Partial loss of income	750/-
Transport expenses	5,000/-
Medical expenses	18,057/-
Pain & Suffering	1,00,000/-
Loss of earning capacity	1,00,000/-
Permanent disability	40,000/-
Total	2,63,807/-

4. Before the Tribunal, the first respondent/claimant has filed fourteen documents which were marked as Exs.P1 to P14 and three witnesses were examined on their side including the doctor who was examined as P.W.3. The nature of injuries sustained by the 1st respondent/claimant has not been disputed by the appellant - Insurance Company before the Tribunal. The first respondent/claimant has sustained the following injuries as a result of the accident -

- (a) loss of three teethes
- (b) fracture in jaw
- (c) disfiguration in face

5. Admittedly, the first respondent/claimant was hospitalized for a period of six days as a result of the injuries sustained by him, referred to supra. The first respondent/claimant was aged 19 years at the time of accident which happened on 21.01.2010. The Tribunal, under the impugned award has granted a compensation of Rs.2,63,807/- as referred to supra, based on the evidence available on record. Even though under certain heads, the Tribunal has assessed the compensation on lumpsum basis, this Court is of the considered view that overall compensation awarded by the Tribunal amounting to Rs.2,63,807/- cannot be considered to be excessive, as alleged by the appellant - Insurance Company. For the foregoing reasons, there is no merit in this Appeal.



Conclusion :

6. Accordingly, this Civil Miscellaneous Appeal is dismissed. The Appellant - Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited to the credit of MCOP.No.3 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment. The first respondent/claimant is reported dead and no steps were taken by the Appellant - Insurance Company to bring on record the legal heirs of the deceased first respondent/claimant inspite of opportunity being given by this Court, as early as on 23.04.2021. Hence, on deposit of award amount being made by the Appellant - Insurance Company, the Tribunal is directed to disburse the award amount lying to the credit of MCOP.No.3 of 2011 along with accrued interest to the legal heirs of the deceased first respondent / claimant on filing appropriate application. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Attur.

C.M.A.No.2863 of 2015

GPL (CO)
K.RK. (19.11.2021)