



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.1688 of 2018

M/s.Reliance General Insurance Company Limited,
No.408, Third Floor,
Perundurai Road, Erode. .. Appellant/2nd Respondent

Vs.

1.S.Gowtham
2.P.Vasanthi .. Respondents/ Petitioner
and 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.09.2017 made in M.C.O.P.No.708 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.1, Salem.

For Appellant : M/s.M.B.Gopalan Associates

For R1 : Mr.T.S.Arthanareeswaran

JUDGMENT

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed to set aside the award dated 01.09.2017 made in M.C.O.P.No.708 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.1, Salem.

3.The appellant is the 2nd respondent in M.C.O.P.No.708 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.1, Salem. The 1st respondent filed the said



10. Questioning the quantum of the compensation awarded by the Tribunal, the learned counsel for the appellant would contend that the Tribunal has not properly appreciated the evidence available on record and held that the accident had occurred only due to the negligence of the tipper lorry and thus, erroneously fixed the liability on the appellant. He would further contend that the Tribunal has also failed to appreciate that there could be no permanent loss of income due to the injuries sustained by the injured and wrongly adopted the multiplier method. He also pointed out that the Tribunal has erroneously awarded towards loss of earning and on other heads excessively. Therefore, the learned counsel for the appellant seeks to set aside the award passed by the Tribunal.

11. On a perusal of the award passed by the Tribunal, it appears that the Tribunal has considered each and every aspect as regards the occurrence of the accident, grievous injuries sustained by the injured and various other aspects and has rightly awarded the compensation. In fact, the Tribunal has considered the fact that there was no evidence adduced on behalf of the appellant to prove that the accident had not occurred due to the negligent on the part of the driver of the tipper lorry and as such, the Tribunal has rightly fixed the liability on the 2nd respondent and the appellant/Insurance Company. As regards the injuries sustained by the 1st respondent and he was the Medical Board, where it was assessed that the first respondent has sustained 60% disability. While so, the Tribunal has fixed only 40% disability and therefore, this Court does not find any infirmity to reduce further. Though the injured claimant was minor at the time of accident, the Tribunal, considering the fact that due to the injuries sustained by him, he would not be in a position to earn, fixed a sum of Rs.7,000/- per month as monthly income of the injured/claimant to meet the ends of justice and thus, calculated the loss of income by adopting multiplier method and arrived at Rs.6,04,800/-, which, in the opinion of this Court, just and proper and does not require any interference. As regards the compensation awarded under various heads, including medical expenses, the Tribunal has rightly awarded just compensation which also cannot be interfered with. For the forgoing reasons, this Court does not find any ground to interfere with the award passed by the Tribunal.

12. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.8,65,679/- awarded by the Tribunal as compensation to the 1st respondent, along with interest and costs, is confirmed. The appellant-Insurance Company is directed to deposit the award amount, along with interest and costs, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.708 of 2012 on the file of the Motor



Accidents Claims Tribunal, Special Subordinate Court No.1, Salem. On such deposit, the 1st respondent is permitted to withdraw the award amount along with interest and costs, after adjusting the amount if any already withdrawn, by filing necessary application before the Tribunal. No costs. Consequently, connected CMP.No.13184 of 2018 is also closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

gbi
To

1.The Special Subordinate Judge,
Special Subordinate Court No.1,
Motor Accidents Claims Tribunal,
Salem.

Copy to:
The Section Officer,
VR Section,
High Court, Madras

C.M.A.No.1688 of 2018

sra(CO)
A.SK(27.01.2022)