



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.3286 of 2021
and CMP No.18662 of 2021

M/s. Bharathi Axa General Insurance Co. Ltd.,
No.162, 2nd floor,
Metro Plaza, Club House Road,
Anna Salai, Chennai - 600 002. ... Appellant/3rd Respondent

Vs

1. A.Senthil Kumar ...1st Respondent/Petitioner
2. R.Ravi ...2nd Respondent/1st Respondent
3. D.Arumugam
(2nd and 3rd respondents / 1st and 2nd respondents
in main O.P. remained exparte in lower Court,
notice may be dispensed with) ...3rd Respondent/2nd Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.01.2019 passed in M.C.O.P. No.4782 of 2013 on the file of the Motor Accidents Claims Tribunal cum learned Special Sub Court No.2, Small Causes Court, Chennai.

For Appellant : Mr.K.Poomalai

For Respondent : Mr.S.Sankaralingam
for Caveator

J U D G M E N T

The Insurance Company is on appeal, challenging the quantum of compensation awarded. The victim / 1st respondent suffered the following injuries in the accident:

'Fracture transverse process of C1 right side
B/1 multiple rib fracture. Fracture post wall of
left acetabulum
Fracture spinal process of L5



Fracture transverse process L3/B/L
hemopneumothorax
Pneumonia with respiratory failure with ards''

2. Though the Medical Board assessed the disability at 15%, considering the nature of injuries and consequences of the injuries of the petitioner, the Tribunal adopted the multiplier method and awarded a sum of Rs.4,28,400/- towards loss of earning capacity. The Tribunal awarded compensation on other heads as follows:

S.No.	Heads	Amount Rs.
1	Loss of Earning Capacity	4,28,400
2	Compensation for Disability	45,000
3	Pain and Sufferings	75,000
4	Loss of Income	51,000
5	Transport to hospital	5,000
6	Extra nourishment	25,000
7	Damage to clothing	5,000
8	Medical Attendants	50,000
9	Loss of Amenities	50,000
10	Medical expenses	7,62,200
	Total	14,96,600

Thus the total compensation awarded by the Tribunal worked out to Rs.14,96,600/- The Insurance Company is on Appeal challenging the quantum.

3. I have heard Mr.K.Poomalai, learned counsel appearing for the Appellant.

4. Mr.Poomalai, learned counsel appearing for the appellant would contend that after applying the multiplier method, the Tribunal granted a sum of Rs.4,28,400/- towards loss of earning capacity. The Tribunal was not right in granting a sum of Rs.45,000/- toward disability. Therefore, according to the learned counsel, the award is on the higher side.

5. I have considered the submissions of the learned counsel.



6. The nature of injuries would show that they are very serious and they will have long lasting effect in the life of the victim. Therefore, even though the grant of compensation for disability and loss of income could be said to be slightly on the higher side, looking at the overall compensation awarded, I don't think it could be termed to be on higher side so as to warrant interference at the hands of the Court. However, the compensation awarded in other heads, particularly on the head of pain and suffering and loss of amenities, considering the fact that the injuries are in the Spinal Cord, appear to be a very low. I, therefore do not see any reason to interfere with the award of the Tribunal. The Civil Miscellaneous Appeal fails and it is accordingly dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vum
To

1. The Motor Accidents Claims Tribunal
cum Special Subordinate Judge No.2,
Small Causes Court,
Chennai.

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

+2ccs to M/s.S.Sankaralingam, Advocate Sr.61029
+1cc to M/s.K.Poomalai, Advocate Sr.61608

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