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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2021

C O R A M

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 760 of 2018

and

C.M.P.No.6466 of 2018

Cholamandalam MS General Insurance Company Limited,
2nd Floor, Dare House,
No.2, N.S.C. Bose Road,
Chennai - 600 001.

...Appellant

Vs.

1.Venkatesan

2.Senthil

3.Royal Sundaram Alliance Insurance Company Limited,
Sundaram Finance Limited,
No.109, CD KK Complex,
1st Floor, Trichy Main Road,
Venkatesapuram, Perambalur.

4.Karuppaiah

[Respondents 2 & 4 were set ex-parte
in Lower Court]

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 06.04.2016 made in M.C.O.P.No.309 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur.

For Appellant	:	Mr.M.B.Raghavan
For R1	:	Mr.M.Sivakumar
For R3	:	Mr.K.Vinoth For M/s.Elveera Ravindran
For RR 2 & 4	:	Ex-parte



J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant/Insurance Company has preferred this appeal.

2. Mr.M.B.Raghavan, learned counsel appearing for the appellant/Insurance Company submitted that the Tribunal awarded the compensation of Rs.1,08,000/- towards disability. The doctor issued disability certificate stating that the 1st respondent herein sustained permanent disability as 39%. The Tribunal has taken the percentage of disability at Rs.36,000/- and awarded Rs.3,000/- per percentage of disability, which is on the higher side. The disability itself has been awarded as 39%, while so, the Court should have taken 25% as disability to award compensation.

3. Per contra, the learned counsel appearing for the respondents 1&3 would contend that the injuries sustained by the 1st respondent grievous in nature. Therefore, taking into consideration all these aspects, the Tribunal fixed Rs.3,000/- per percentage of disability and awarded compensation. The accident was occurred on 31.07.2012. Therefore, taking into consideration all these aspects, in the award, Rs.3,000/- per percentage was fixed and compensation was awarded.

4. Heard the learned counsel on either side and perused the materials placed on record.

5. A perusal of Ex.P5-Discharge Summary would clearly shows that the 1st respondent has sustained following injuries:-

- (i) laceration above the left eye
irregular in size measuring 8x4x3 cm,
- (ii) laceration above the right
eyebrow measuring 6x2 cm in size,
- (iii) multiple abrasion in the lower
chin,
- (iv) Abrasion in the left shoulder,
- (v) laceration measuring 2 x 1 cm in
the forehead,
- (vi) cut injury over the left side of
lower hip measuring 4x1 cm,



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(vii) deep lacerated wound in lower inner lip measuring 5x1cm,

(viii) lacerated wound in chin measuring 3x1/2 cm,

(ix) bilateral periobital edema(+)

6. It is seen that the 1st respondent has sustained grievous injuries. Though the learned counsel appearing for the appellant submitted that these are all injuries not grievous in nature, there are 9 injuries, some of which will have the tendency of disturbing the functioning of the body in one way or the other. The doctor assessed the disability as 39%. The Tribunal has taken only 36% and awarded the compensation. The Tribunal has not applied the multiplier method to award compensation. The Tribunal awarded Rs.3,000/- per percentage of disability. Accordingly, the Tribunal awarded a sum of Rs.1,08,000/- towards disability. Considering the nature of disability sustained by the claimant, the awarded amount towards the disability by the Tribunal is not on the higher side but it is just and proper. Therefore, I do not find any infirmity in the compensation awarded for the disability sustained by the claimant. Therefore, this Court is of the view that there is no need to interfere with the award passed by the Tribunal in M.C.O.P.No.309 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Perambalur.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.



2. The Section Officer,
V.R.Section,
High Court, Chennai-104.

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+1cc to Mr.C.Prabakaran, Advocate, S.R.No.24064

+1cc to M/s.Elveera Ravindran, Advocate, S.R.No.24048

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SSV(CO)
SU(23/11/2021)