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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

C.M.A.NO.2411 OF 2014

Karuppusamy (Died)

2.Rangammal

3.K.Selvakumar

4.K.Baskaran

5.K.Logeswaran

[Appellants 2 to 5 brought on record as LR's
of the deceased sole appellant viz., Karuppusamy
vide order of Court dated 22.09.2020 made in
CMA.No.20790 to 20792 of 2016 in
CMA.No.2411 of 2014 (AQJ)]

..Appellants

Versus

1. Gowri

2. The New India Assurance Company Limited,
Rep, by its Branch Manager, Amman Complex,
Mettur Road, Erode District.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award and judgment dated 11.06.2013 made in M.C.O.P.No.136 of 2012 on the file of the Court of the Motor Accidents Claims Tribunal, Sub Court, Gobichettipalayam, Erode District and enhance the compensation from Rs.1,55,060/- to Rs.4,00,000/- and pass any other relief or relief's that may be appropriated in the present circumstances of the case.

For Appellant : Mr.V.P.Karthikeyan

For Respondents: Ms.R.Sreevidhya [for R2]
R1 - notice served

J U D G M E N T

The Appellants/claimants have filed this appeal against the award and judgment dated 11.06.2013 made in M.C.O.P.No.136 of 2012 on the file of the Motor Vehicle Accidents Claims Tribunal, Sub Court, Gobichettipalayam, Erode District.



2. The case of the appellants/claimants are as follows:

The claimant was a mason and also an agriculturist. On 29.01.2012 after finishing the construction work at about 4.00 p.m., the claimant was proceeding in his bicycle on Gobichettipalayam to Coimbatore main road from north towards south on the extreme left side of the road at a moderate speed. When the claimant came near one Nataraj's house at Palanigoundenpalayam, the Alto car bearing Reg.No.TN-38-AC-6606 which came behind the claimant in a rash and negligent manner at a high speed, without blowing the horn in the same direction dashed against the claimant from behind and caused the accident. Due to the impact, the claimant was thrown away along with his bicycle and he sustained grievous injuries. Immediately after the accident, he was given first aid and later shifted to SG Met hospital, Erode for further treatment. Even after discharge from the hospital, the claimant was still undergoing treatment as an outpatient. Due to the said accident the claimant had sustained abrasion over right forehead, abrasions and a lacerated wound over his right temporal region, a contusion over his left temporal region, abrasion over the right hand dorsum and over his left upper arm. Due to the injuries sustained in the accident the claimant was unable to do both masonry work and agriculture. From the above two sources, claimant was earning Rs.25,000/- per month. Since the claimant suffered permanent disability, he was unable to carry on his avocation as he was doing before. Hence, the claimant filed a claim petition seeking compensation of a sum of Rs.10,00,000/- for the injuries sustained by him in the accident.

3. Resisting the claim made by the deceased appellant/claimant, the 2nd respondent / Insurance company had filed a detailed counter statement inter alia stating that the accident did not occur in the manner as projected by the deceased appellant/claimant. They had also denied the age, occupation and monthly income of the claimant. Thus, they prayed for dismissal of the claim petition.

4. Before the Tribunal, to prove his case, the claimant examined himself as P.W.1 and 12 documents were marked as Exs.P1 to P12. On the side of the 2nd respondent/Insurance Company, none were examined and no exhibits were marked.

5. On appreciation of materials, the Tribunal arrived at a finding that the accident had occurred due to the rash and negligent driving of the driver of the Alto car bearing Registration No.TN-36-AC-6606 and held that the 2nd respondent / Insurance Company, as insurer of the said vehicle, is liable to pay compensation. The break-up details are as follows:



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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of earning	18,000.00
2.	Transport	5,000.00
3.	Medical Expenses	88,063.00
4.	Extra nourishment	9,000.00
5.	Mental agony and shock	5,000.00
6.	Pain and Sufferings	30,000.00
	TOTAL	1,55,063.00

6. Heard the learned counsel for 2nd respondent / Insurance Company and the learned counsel appearing for appellants.

7. According to the learned counsel for the appellants, the claimant sustained injury due to the rash and negligent driving on the part of the offending vehicle of the 1st respondent and due to the injury, he was admitted in the hospital and produced various documents before the Tribunal and claimed compensation of Rs.10,00,000/-. Without appreciating the case of the claimant, the Tribunal has simply rejected the claim of the claimant that he is not entitled to compensation for disability and has not taken note of the medical bills that were produced by the deceased appellant/claimant in the aforesaid claim petition. Therefore, on these grounds the claimant has preferred this appeal.

8. Learned counsel for the 2nd respondent/Insurance Company would submit that the claimant has not produced documents for the disability and pending appeal, the injured claimant has died and in the present appeal, the legal heirs of the deceased claimant have been made as parties.

9. Learned counsel for the appellants seeks enhancement of compensation under other heads namely the medical expenses incurred by the deceased claimant due to the accident.

10. This Court has perused the original records and from the said records it is found that Ex.P.8 was marked before the Tribunal and the Tribunal has not awarded any amount for the said medical bills. The appellants are entitled to a sum of Rs.11,740/- towards medical expenses under Ex.P.8 rounded off to Rs.12,000/-.

11. Accordingly, the appellants are entitled to the compensation of Rs.1,67,063/- rounded off to Rs.1,67,000/- including the additional medical bills. The 2nd



respondent/Insurance Company has deposited entire compensation amount before the Tribunal and undertakes to pay the enhanced compensation amount within a period of four weeks from the date of receipt of a copy of this order.

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12. In the result, this Civil Miscellaneous Petition is partly allowed. The appellant Insurance Company shall deposit the modified compensation amount, as awarded by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw the modified amount by filing appropriate application before the tribunal. No costs.

Sd/-
Deputy Registrar(P & A)

//True Copy//

Sub Assistant Registrar

bri

To

1. The Motor Vehicle Accidents Claims Tribunal,
Sub Court, Gobichettipalayam,
Erode District.
2. The Section Officer,
V.R.Section, High Court, Madras.

C.M.A.No.2411 of 2014

AK-II(CO)
RGA(01/11/2021)