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C.M.A.No.1628 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**  
and  
**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

C.M.A.No.1628 of 2020  
and CMP.No.11978 of 2020

M/s.Reliance General Insurance Co. Ltd.,  
Reliance House, No.6,  
Haddows Road, Nungambakkam,  
Chennai 6.

...appellant

Vs.

1. K.Thangamuthu  
2. E.Boopalan

...respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 17.10.2019 made in MCOP.No.6625 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Chennai.

For Appellant : Mr.S.Arunkumar

For Respondents

for R1

: Mr.F.Terry Chella Raja

for R2

: Notice returned as "vacated"



C.M.A.No.1628 of 2020

## **J U D G M E N T**

**WEB COP** [Judgment of the Court was delivered by R.SUBRAMANIAN, J]

The Insurance Company is on appeal challenging the award of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Chennai in MCOP.No.6625 of 2014, granting a sum of Rs.46,34,800/- for the disability suffered by the claimant due to the injuries sustained in a road accident that occurred on 23.07.2014.

2. According to the claimant, on 23.07.2014 at about 17.00 hours while he was riding his motorcycle bearing Registration No.TN-20-AR-7876 from Vepery to Minjur, the Lorry bearing Registration No.TN-28-AJ-5284 owned by the second respondent insured with the appellant Insurance Company came from behind and dashed against the motorcycle, causing grievous injury to the rider/first respondent herein. The accident caused permanent disablement in the right hand of the claimant. It was also contended that the claimant being a graduate in Veterinary Science, the inability to use his right hand would substantially hamper his practice as a Veterinarian and it will have a direct impact on his earning power.



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3. The claim was resisted by the Insurance Company contending that the accident did not occur in the manner as suggested by the claimant and there was some element of contribution of the claimant also. It was also contended that the compensation claimed at Rs.2 Crores was phenomenal and unreasonable.

4. Before the Tribunal, the injured claimant examined himself as PW1 apart from examining a Senior Veterinarian as PW2 and an Assistant Professor as PW3. Exs.P1 to P35 were marked. There was no evidence let in on the side of the Insurance Company or the owner of the vehicle. The disability certificate was marked as Ex.C1.

5. Considering the evidence on record, the Tribunal concluded that the accident had occurred due to the negligence of the Lorry driver. While doing so, the Tribunal took into account of the fact that the FIR was registered against the driver of the Lorry and there was no evidence let in by the Insurance Company in support of its contention that the injured had also contributed to the accident. With regard to the disability, the Tribunal



concluded that there was a functional disability at 75% because of the injury.

For the purpose of calculating the Loss of Future Earnings, the Tribunal took the monthly income of the injured at Rs.20,000/-, added 40% towards future prospects, deducted 10% towards income tax and worked out the Loss of Income at Rs.3,02,400/- per year. Applying multiplier 18 and the disability percentage at 75%, the Tribunal arrived the Loss of Future Earnings at Rs.40,82,400/-.

6. Thus, the Tribunal awarded amounts under the following heads.

| <i>S. No.</i> | <i>Heads under which the amount is awarded by the Tribunal</i> | <i>Amount awarded by the Tribunal in Rs.</i> |
|---------------|----------------------------------------------------------------|----------------------------------------------|
| 1.            | Loss of Future Earnings                                        | 40,82,400                                    |
| 2.            | Pain and Sufferings                                            | 25,000                                       |
| 3.            | Transportation Expenses                                        | 5,000                                        |
| 4.            | Loss of Clothes and Articles                                   | 1,000                                        |
| 5.            | Attender Expenses                                              | 10,000                                       |
| 6.            | Loss of Expectancy                                             | 10,000                                       |
| 7.            | Loss of Happiness                                              | 10,000                                       |
| 8.            | Loss of Marital Prospects                                      | 10,000                                       |
| 9.            | Future Medical Expenses                                        | 25,000                                       |
| 10.           | Medical Expenses                                               | 4,46,303                                     |
| 11.           | Loss of Amenities                                              | 10,000                                       |
|               | <b>Total</b>                                                   | <b>46,34,703</b>                             |



Thus, the total compensation was arrived at Rs.46,34,703/-.

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7. We have heard Mr.S.Arunkumar, learned Counsel appearing for the Insurance Company and Mr.F.Terry Chella Raja, learned counsel appearing for the first respondent/claimant.

8. Mr.S.Arunkumar, learned counsel appearing for the Insurance Company vehemently contends that the claimant is guilty of placing false evidence before the Tribunal. The learned counsel draws attention of this Court to the evidence of PW2, wherein PW2 has deposed that Rs.44,000/- per month was paid as stipend to the claimant and the same was not supported by any material on record. According to the learned counsel it is a clear attempt to place false evidence before the Court. He also points out that the Tribunal was not right in taking the Loss of Income at Rs.20,000/- per month, adding 40% towards future prospects and arriving the Loss of Future Earning at Rs.40,82,400/-.

9. Contending contra, Mr.F.Terry Chella Raja, learned counsel appearing for the first respondent/claimant would submit that being a Veterinary Graduate, the loss of right hand would have a very great impact on



C.M.A.No.1628 of 2020

the lifestyle as well as the profession of the injured claimant. Therefore, according to him, the compensation that has been granted is very less and he would also submit that he has filed Cross Objection seeking enhancement in Sr.No.71484 of 2021, but the same has been returned.

10. We have considered the rival submissions. No doubt an attempt has been made by the first respondent/claimant to exaggerate his income, but that alone would not disentitle him from getting fair compensation. Being a veterinarian, the loss of right hand is a major handicap, which will have a considerable bearing on the profession and income of the injured. The Tribunal has taken into account all the circumstances and has arrived at a reasonable figure of Rs.20,000/- only as monthly income. Though the disability certificate has been issued by the Medical Board certifying the disability at 80%, the Tribunal has taken only 75%. We therefore do not find any reason to interfere with the said fixation done by the Tribunal. Even assuming that the fixation is on the higher side, we find that the compensation granted under the other heads, particularly, under the heads of Pain and Suffering, Loss of Happiness, Attender Expenses, Loss of Marital Prospects, Loss of Amenities and Loss of Future Medical Expenses are too low and



C.M.A.No.1628 of 2020

hence any excess compensation under the head Loss of Income could be set off against the lesser compensation awarded under the other heads. We do not find any reason to interfere with the award of the Tribunal and the appeal is liable to be dismissed.

11. At this juncture, it is represented by the learned counsel for the appellant/Insurance Company that 50% of the award amount has already been deposited before the Tribunal.

12. For the foregoing reasons, the Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit the balance award amount with accrued interest and costs, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount together with interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

**(R.S.M.J.) (R.N.M.J.)**

14.12.2022



C.M.A.No.1628 of 2020

Index : No

Speaking order: Yes

pvs

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C.M.A.No.1628 of 2020

To

1. The Special Sub Court No.2,  
Motor Accidents Claims Tribunal, Chennai
2. The Section Officer,  
VR Section High Court, Madras.



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**and**  
**R.N.MANJULA, J.**

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