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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.424 and 2032 of 2021
and
C.M.P.No.10991 of 2021

C.M.A.No.424 of 2021

Lalitha
wife of Venkatesan
rep. by next friend
Sister Kavitha
wife of Sivakumar
No.160(2) Colony
Kilakku Theru
Velur,
Paramathy Velur Taluk,
Namakkal District.

... Appellant/Petitioner

Vs.

1. Venkatesan
2. The Manager,
New India Assurance Company Limited,
KVR Complex,
III Floor, 80 Feet Road,
Sengundapuram,
Karur - 639002.

Another Address
The Manager,
New India Assurance Company Limited,
Divisional Office No.29, Paramathy Road,
Namakkal.

... Respondents/Respondents

For Appellant : Mr.C.Thangaraju
For Respondents : Mrs.S.R.Sumathy for R2
R1 : Not ready in notice



C.M.A.No.2032 of 2021

New India Assurance Company Limited,
T.P.(Suit) Claims HUB,
Divisional Office,
29, Paramathy Road,
Namakkal - 637 001.

... Appellant/2nd Respondent

Vs.

1. Venkatesan

... 1st Respondent/1st Respondent

2. Lalitha W/o Venkatesan
rep. by next friend sister
Kavitha W/o Sivakumar
160(2) Colony,
Kilakku Theru, Velur,
Paramathy Veluk Taluk,
Namakkal District.

... 2nd Respondent/Petitioner

COMMON PRAYER:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the Judgment and Decree in MCOP No.976 of 2018 dated 19.11.2020 on the file of Motor Accident Claims Tribunal (Sessions (Fast Track Mahila) Judge, Namakkal.

For Appellant : Mr.S.R.Sumathy

For Respondents : Mr.Thangaraju for R2

COMMON JUDGMENT

(Common Judgment of the Court was made by K.KALYANASUNDARAM.,J)

C.M.A.No.424 of 2021 is filed by the claimant seeking enhancement of compensation, whereas, the Insurance Company questioning the award, has preferred C.M.A.No.2032 of 2021. Since both the appeals arise out of the same order passed in the MCOP dated 19.11.2020, both are heard together and disposed of by this common Judgment.

2.For the purpose of clarity, the parties are referred to as per their rank before the Tribunal.

3.The case of the claimant is that on 18.06.2018 at about



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08.35 a.m, she travelled as pillion rider in a two wheeler bearing Reg.No.TN-88-D-3620. The vehicle was driven by the first respondent in a rash and negligent manner and he applied sudden break and caused the accident. In the impact, the claimant sustained injuries.

4.The claim petition was filed by the claimant represented by her sister Kavitha. Before the Tribunal, Exs.P.30 to 38 were produced to show that the claimant had spent Rs.23,93,391/- towards medical expenses. The Tribunal in conclusion of the Trial, has awarded compensation of Rs.40,43,500/- together with interest at the rate of 7.5% per annum.

5.The learned counsel appearing for the Insurance Company Mrs.S.R.Sumathy would argue that the claimant had produced bogus medical bills before the Tribunal to claim a sum of Rs.23,00,000/-. According to her, the medical bills were bogus and prepared to claim higher compensation in this case. It is next submitted that the first respondent is the husband of the claimant, but the claimant was represented by her sister to claim compensation.

6.Per contra, the learned counsel appearing for the claimant Mr.C.Thangaraju would argue that all the medical bills are genuine and they have been produced before the Tribunal in the presence of the learned counsel representing for the Insurance Company, but no cross examination on this aspect was made before the Tribunal.

7.In reply, the learned counsel appearing for the Insurance Company would submit that the Insurance Company was not provided adequate opportunity to verify the medical bills and hence, in the interest of justice, the matter may be remanded back to the Tribunal for proper adjudication with regard to the medical bills.

8.We have considered the rival submission of both the learned counsels and perused the materials available on record.

9.In the matter on hand, though the Tribunal has passed an award for Rs.40,43,500/-, the Insurance Company had restricted the appeal to a sum of Rs.23,93,500/-. In other words, they have admitted the liability to an extent of Rs.16,50,000/-. Perusal of the records reveal that a bunch of receipts have been produced to claim medical expenses. According to the counsel representing the appellant, ample opportunity was not given to verify the medical bills before cross examining the witness.

10. In the light of the above fact, to meet the ends of justice, the matter is remitted back to the Motor Accident



Claims Tribunal for proper adjudication with regard to the medical bills and the Tribunal is directed to dispose of the claim petition within a period of three months from the date of receipt of a copy of this Judgment. The Insurance Company is directed to deposit the admitted liability of Rs.16,50,000/- along with interest as ordered by the Tribunal, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the said amount, less the amount already withdrawn, if any, together with proportionate interest and costs.

11. With the above observation and directions, these Civil Miscellaneous Appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

skn

To

1. Motor Accident Claims Tribunal
Sessions (Fast Track Mahila) Court, Namakkal.

+2ccs to Mr.C.Thangaraju Advocate, S.R.No.21958

COMMON JUDGMENT MADE IN
C.M.A.Nos.424 and 2032 of 2021
and
C.M.P.No.10991 of 2021

VBM(CO)
CT(25/05/2022)