IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM

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

C.M.A. NO.1458 OF 2021
AND
CMP.NO.7616 OF 2021

M/s.Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor,
Haddows Road, Chennai 600 006. ...Appellant / 2nd Respondent

Vs.

1.Sirisha ...1st Respondent / 1st Petitioner

2.S.Gokulakrishnan ...2nd Respondent / 1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the judgment and decree dated 20.02.2020 made in MCOP.No.5715 of 2015 on the file of the Motor Accidents Claims Tribunal/V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar

For Respondents
For R1 : Mr.M.Velmurugan
For R2 : Notice returned as left

J U D G M E N T

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J]

Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal/V Court of Small Causes, Chennai in MCOP.No.5715 of 2015, this appeal has been filed by the Insurance Company.

2. The facts of the case in nutshell are:-
On 26.12.2013 at about 22.30 hours, the claimant was travelling in a Car on the Velachery-Taramani 100 feet road. When the claimant's Car was nearing Tansi Nagar, a Sumo bearing Registration No.TN-11-X-7695 came in a rash and negligent manner and dashed against her Car. Due to the impact, the claimant

sustained grievous injuries. Hence, she laid a claim petition before the Tribunal for a sum of Rs.30,00,000/- as compensation.

3. The Insurance Company resisted the said claim petition, disputing the manner of accident, age, occupation and income of the claimant and their liability to pay the compensation.

4. Before the Tribunal, in order to prove the claim, the claimant examined herself as PW1 along with PW2 and marked 23 documents. On the side of the Insurance Company, two witnesses were examined and five documents were marked.

5. The Tribunal, after anlaysing the entire evidence, came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the Sumo vehicle and directed the Insurance Company to pay a compensation of Rs.40,84,600/- to the claimant.

6. Though very many contentions have been made made in this appeal, the main contention of the learned counsel for the Insurance Company is that the claimant has not produced Bank Statement and IT Returns to prove her income. However, the Tribunal has fixed the notional monthly of the claimant as Rs.20,000/- per month, which is on the higher side. Further, though the petitioner is working in a Private Company, addition of 50% towards future prospects is not permissible.

7. On the other hand, the learned counsel for the claimant submitted that the compensation awarded by the Tribunal is just and fair, which needs no interference by this Court.

8. Heard the rival submissions and perused the materials available on record.

9. According to the claimant, at the time of the accident, she was 31 years and working as a Chat Representative and Proactive Internet in Staples, Canada and earning Rs.1,50,000/- per month. However, she failed to produce the Bank Statement and I.T. returns, hence, considering the educational qualification and socio economic conditions, the Tribunal rightly fixed Rs.20,000/- as monthly income of the claimant. She was working in a Private Company and her job is not at all secured, hence, this Court adds 40% towards future prospects. If so added, the monthly income comes to Rs.28,000/- [20,000 + 8,000]. Considering the age of the claimant, the proper multiplier 16 is applied, the amount comes to Rs.53,76,000/- [28,000 x 12 x 16]. Based on the medical records, the Tribunal fixed the disability of the claimant at 60%, therefore, the Loss of Earnings is arrived as Rs.32,25,600/- [53,76,000 x 60/100].

10. In addition to that, the amounts awarded by the Tribunal under other heads are fair and reasonable, hence, they are confirmed. In total, the claimant is entitled to Rs.38,54,113/-, which is rounded off to Rs.38,54,000/- with 7.5% interest from the date of claim petition till the date of realisation. Thus, the total compensation payable to the claimants is re-calculated and tabulated below:

S. No.	Heads under which the amount is awarded by the Tribunal	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Towards Pain and Sufferings	50,000	50,000
2.	Towards Transport and Extra Nourishment	50,000	50,000
3.	Loss of Earnings	34,56,000	32,25,600
4.	Towards Attender Charges	2,7000	2,700
5.	Towards Loss of Amenities	50,000	50,000
6.	Medical Expenses	4,74,813	4,74,813
7.	Damages to Clothes	1,000	1,000
	Total	40,84,513	38,54,113 rounded off to 38,54,000

11. In view of the above modifications, the appeal is partly allowed. The Insurance Company is directed to deposit the above modified award amount to the credit of claim petition with accrued interest and costs, 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, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with interest and costs. There shall be no order as to costs in the appeal. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

pvs

To

1.The V Court of Small Causes,
  Motor Accidents Claims Tribunal,
  Chennai

2.The Section Officer,
  V.R.Section,
  High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate Sr.No.29055

+1cc to Mr.R.Nageswar Rao, Advocate Sr.No.29344

C.M.A. No.1458 of 2021

AJB(CO)
RVM(31/05/2022)