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C.M.A.No.1218 of 2022
and C.M.P.No.8736 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HONOURABLE **MS.JUSTICE V.M.VELUMANI**
and
THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.1218 of 2022
and C.M.P.No.8736 of 2022

M/s.Reliance General Ins.Co.Ltd.
Reliance House, 6th Floor, No.6, Haddows Road,
Nungambakkam, Chennai 600 006.

...Appellant

Vs.

1.Mr.P.Parasuraman

2.Mr.Delhiraja

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 02.12.2021 passed in M.C.O.P.No.921 of 2015 by the Motor Accidents Claims Tribunal, Special Sub Court at Cuddalore.



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For Appellant : Mrs.C.Bhuvanasundarai
For R1 : Mrs.Ramya.V.Rao
For R2 : Notice Dispensed with

J U D G M E N T

(Judgment of the Court was delivered by SUNDER MOHAN,J.)

The above appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal, Special Sub Court at Cuddalore in M.C.O.P.No.921 of 2015 dated 02.12.2021.

2.The first respondent/claimant herein filed a claim petition in M.C.O.P.No.921 of 2015 stating that on the date of accident i.e., on 21.11.2014 at about 7.30 p.m, while he was travelling as a passenger in the car belonging to the second respondent herein insured with the appellant, the driver of the car drove the car in a rash and negligent manner and hit against the tree in the road between Karaiyamputhur and Eadaipaliyam. In the said accident, the first respondent sustained grievous injuries. He was admitted in Puducherry, Jawaharlal Institute of



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Post Graduate Medical Education and Research (JIPMER) Hospital for taking treatment. Hence, he filed claim petition claiming compensation of Rs.40,00,000/- (Rupees Forty Lakhs only) towards loss of income and under other heads.

3.The owner of the car namely the second respondent herein remained Ex-Parte before the Tribunal.

4.The appellant herein filed a counter stating that the 1st respondent had not established the details of the treatment. The driver of the car bearing Reg.No.PY-01-AJ-9091 did not have valid license and the car did not have the requisite permit. The claim made is excessive and prayed for dismissal of the claim petition.

5.Before the Tribunal, the 1st respondent/claimant examined his wife as P.W.1 and the Doctor as P.W.2 and marked 22 Exhibits as Ex.P.1 to Ex.P.22. The appellant did not examine any witnesses on their side. The disability certificate issued by the medical board was marked as Ex.C.1.



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6.The Tribunal after considering the pleadings, evidence and documents on record awarded a compensation of Rs.55,57,820/- (Rupees Fifty Five Lakhs Fifty Seven Thousand Eight Hundred and Twenty only).

7.The Appellant/Insurance Company has filed this appeal on the ground that the quantum of compensation awarded by the Tribunal is excessive.

8.The learned counsel for the appellant submitted that the Tribunal had not conducted an impartial enquiry in the claim petition filed by the 1st respondent. The 1st respondent had not established that he is entitled to Rs.14,40,000/- (Rupees Fourteen Lakhs Forty Thousand only) as Attender Charges. The Tribunal also had awarded excessive amounts under the head Pain and Sufferings and towards Medical Expenses. The Tribunal awarded Rs.2,00,000/- (Rupees Two Lakhs only) towards Transport Charges which is excessive and prayed for setting aside the award of the Tribunal.



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9.The learned counsel for the 1st respondent submitted that the Tribunal had awarded compensation in a just manner and the grounds raised by the appellant are unsustainable and prayed for dismissing the appeal.

10. We have heard the learned counsels on either side and perused the pleadings, evidence and documents on record.

11.We find that the income fixed by the Tribunal is reasonable and the appellant has not let in any evidence to show that the income fixed by the Tribunal is erroneous. The 1st respondent had established through the evidence of P.W.1 and P.W.2 that he suffered head injury and on account of the same had suffered 100% functional disability. Ex.P.12 to Ex.P.22 Medical Records produced on side of the 1st respondent establishes the same. The appellant has not let in any evidence to rebut the evidence let in on the side of the 1st respondent. The evidence discloses that the 1st respondent has lost his eye sight and he cannot speak, and



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his right hand and leg are totally paralyzed. He cannot do his day-to-day activities without the help of the attenders. The appellant has not been able to show anything contrary to the evidence let in by the 1st respondent. Thus, the 1st respondent has suffered 100% functional disability. The evidence of P.W.1 discloses that the 1st respondent is entitled to attender charges and the 1st respondent was just 32 years at the time of accident. It is in the evidence of P.W.1 that a permanent attender is required to take care of the needs of the injured person. He requires a helper even for toilet purposes. This evidence is not rebutted by the appellant. The Tribunal has calculated the attender charges for a period of twenty (20) years at the rate of Rs.6000/- per month. We are of the view that the same is just and proper in view of the nature of the injuries sustained by 1st respondent and there is no reason to interfere with the said finding of the Tribunal. The appellant had not been able to establish that the Tribunal was erroneous in awarding compensation under other heads. Thus the compensation awarded by the Tribunal is confirmed.

12.In view of the above, we find that the order of the Tribunal in awarding the sum of Rs.55,57,820/- (Rupees Fifty Five Lakhs Fifty Seven Thousand Eight



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Hundred and Twenty only) as compensation to the 1st respondent is just and there is no reason to interfere with the said award. Hence, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

(V.M.V., J)

(S.M., J)

07.11.2022

Index: Yes / No

Internet: Yes/No

Speaking order/Non Speaking order

dk

To

1. The Motor Accidents Claims Tribunal,
Special Sub Court,
Cuddalore.

2. The Section Officer
VR Section
High Court of Madras
Chennai – 600 104



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