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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

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

C.M.A.No.1410 of 2021
and
C.M.P.No.7316 of 2021

M/s United India Insurance Company Limited,
Motor Accidents Claims Cell,
No.134, 1st Floor, Silingi Building,
Greens Road, Chennai - 600 006 ... Appellant/2nd Respondent

Vs.

1.S.Dhivya ...1st Respondent/Petitioner
2.D.Saravanan ...II Respondent/I Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree made in MCOP No.1415 of 2016 dated 20.11.2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Small Causes Court, Chennai.

For Appellant : Ms.Harini for
M/s M.B.Gopalan Associates

For Respondent: Mrs.Rohini Ravikumar

JUDGMENT

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

This appeal arises out of the award passed by the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Small Causes Court, Chennai in MCOP No.1415 of 2016 dated 20.11.2020.

2.This is the case of injury. The case of the claimant is that on 20.05.2015, she was travelling in an Omni Bus bearing Reg.No.48-P-8444 from Thuraiyur to Chennai. On 21.05.2015, at 5.30 a.m, the driver of the bus, who is inexperienced in driving long distance at night and also due to his lack of attention,



fatigue and negligence, hit the bus on the railing of the flyover near Kasi Theatre at Ekattuthangal, which toppled the vehicle to its right side. The claimant and his baby, who were sleeping, could not immediately react to the situation. The claimant fell off her seat and was pushed to the floor. In the impact, the claimant sustained multiple fractures on her arm and grievous injuries. The child did not suffer any injury. It is alleged that the accident had occurred only due to the rash and negligent driving of the driver of the Omni Bus. The second respondent herein is the owner and the appellant is the insurer of the said vehicle. Hence, she filed the claim petition seeking compensation of Rs.1,58,72,725/-.

3.The owner remained ex-parte before the Tribunal. The appellant/Insurance Company filed a counter disputing the manner of accident, age, avocation and income of the injured claimant and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.To substantiate the case, the claimant herself examined as P.W.1 and Exs.P1 to Ex.P.21 were marked. On the side of the appellant/Insurance Company, no witness was examined and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the Omni Bus was responsible for the accident and awarded compensation of Rs.28,30,650/- to the claimant along with interest at the rate of 7.5% per annum. Assailing the award, the appellant/Insurance Company has filed the present appeal.

6.Heard Ms.Harini learned counsel appearing for the appellant/Insurance Company and Mrs.Rohini Ravikumar, learned counsel appearing for the first respondent/claimant and perused the materials available on record.

7.This appeal has been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

8.In the case on hand, to prove the disability, Disability Certificate (Ex.C.1) has been marked, wherein, the Regional Medical Board, Government Kilpauk Medical College Hospital, Chennai has assessed the disability of the claimant as 60%. To prove the employment and income of the claimant, she filed Employment ID (Ex.P.3) and Payslip (Ex.P.5), which show that the claimant was working at M/s Accenture Services Pvt. Ltd and earned Rs.22,250/-. After the accident, she resigned her



job. In this regard, she has filed a copy of the Relieving Letter dated 25.01.2018. Hence, the Tribunal, considering her previous employment, fixed the monthly income as Rs.22,250/- and also considering her age and nature of injuries, applied multiplier '17' and awarded Rs.27,23,400/- (22250x12x17x60/100) under the head of Pecuniary Loss. Apart from that, the Tribunal has awarded Rs.30,000/- towards pain and sufferings; Rs.5,000/- towards Transportation; Rs.20,000/- towards extra nourishment; Rs.22,250/- towards attendant charges and Rs.30,000/- towards loss of future prospects. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

9. In such view of the matter, this Civil Miscellaneous Appeal is dismissed as devoid of merits. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Special Subordinate Court No.1,
Small Causes Court, Chennai.

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

C.M.A.No.1410 of 2021
and
C.M.P.No.7316 of 2021

MG (CO)
CB(06/04/2022)