



C.M.A.No.1495 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.1495 of 2021

and

C.M.P.No.7779 of 2021

The Divisional Manager,
The New India Assurance Co. Ltd.,
Anna Salai,
Vellore District.

.. Appellant

-Vs.-

1.A.T.Nagarajan
2.C.Kannan

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 06.08.2019 made in M.C.O.P.No.410 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirupattur.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.V.Parivallal [R1] – No Appearance
Mr.S.V.Karthikeyan [R2] - No Appearance



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JUDGMENT

The Appellant-Insurance Company is particularly aggrieved by the fact that though the injury sustained by the claimant is in the nature of a simple injury, the Tribunal below has awarded a sum of Rs.1,20,000/- towards the disability and further, the Tribunal below has included medical bills totally unrelated to the treatment undertaken by the claimant for the injuries sustained by him in a road accident to grant compensation under the head of medical expenses.

2. The claimant in M.C.O.P.No.410 of 2016 on the file of the Motor Accident Claims Tribunal, Tirupattur had sustained injuries in a road accident on 01.07.2016. In the F.I.R lodged by the claimant himself, he has described his injuries as abrasions on the right cheek as well as the injuries to the right shoulder and right leg. The wound certificate marked as Ex.B2 issued by the Government Hospital, Tirupattur describes the injuries sustained by the claimant as simple in nature. Thereafter, the petitioner has obtained Ex.P3, which is the certificate indicating that the claimant has gone



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to a physiotherapy clinic on 22.07.2016. The discharge summary, which is marked as Ex.P4 is in the month of August, where it is suggested that the claimant has suffered from a Paget's disease. This is a disease causing disruption/replacement of an old bone tissue with the new bone tissue and is generally associated with age or family history.

3. Therefore, considering the fact the injuries sustained by the claimant even as per his own statement is of a simple nature, the grant of a sum of Rs.1,20,000/- under the head of disability by the Tribunal below has to necessarily be set aside and is accordingly set aside. A sum of Rs.5,58,294/-, which has been included in the medical bills relates to a treatment which the claimant was undergoing for his heart and kidney disease, which is not in any way connected with the injuries sustained by him. Therefore, that amount has be deducted from the medical expenses of Rs.6,65,272/-. Therefore, the amount under this head is reduced to a sum of Rs.1,06,978/-. [Rs.6,65,272/- - Rs.5,58,294/-]. The re-worked compensation would be as follows:-



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<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Disability	1,20,000	-
Pain and Suffering	30,000	30,000
Extra Nourishment	5,000	5,000
Attender Charges	2,000	2,000
Medical expenses	6,65,272	1,06,978
Transportation expenses	18,500	18,500
Loss of income	20,000	20,000
Loss of amenities	10,000	10,000
Total	8,70,772	1,92,478

4. Therefore, the Civil Miscellaneous Appeal is partly allowed and the compensation of **Rs.8,70,772.00** awarded by the Tribunal is hereby reduced to a sum of **Rs.1,92,478.00** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The appellant-Insurance Company is directed to deposit the said amount **Rs.1,92,478.00** to the credit of M.C.O.P.No.410 of 2016 together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a



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period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the first respondent/claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount if any already withdrawn by the first respondent/claimant. The Insurance Company is permitted to withdraw any excess amount, if any deposited by them. The first respondent/ claimant is directed to pay the Court fee for the compensation amount as awarded by this Court if any. The Tribunal below shall not disburse the compensation amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In other respects, the impugned Award of the Tribunal is hereby confirmed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

29.09.2022

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To

1. The Motor Accident Claims Tribunal,
(Special Sub Court), Tirupattur.
2. The Section Officer, V.R.Section, High Court, Madras.

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P.T.ASHA, J.,

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