



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.3636 of 2021
and
CMP.No.21321 of 2021

The Divisional Manager,
National Insurance Company Ltd.,
Jawaharlal Nehru Street,
Puducherry.

...Appellant/R2

Vs.

1.Narmadhadevi

..R1/Claimant

2.Narasingu

..Respondent 2/R1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 10.02.2021 passed in MACTOP.No.42 of 2019 by the Additional Motor Accidents Claims Tribunal, Puducherry.

For Appellant : Mrs.R.Rathna Thara

J U D G M E N T

This appeal is by the Insurance Company, which did not even to let in evidence before the Tribunal.

2.The accident occurred when the claimant was travelling as a pillion rider. The Tribunal had found that the accident had occurred due to the negligence of the rider of the two wheeler. The Tribunal fixed negligence on the part of the two wheeler and held that as the insurer of the two wheeler, the Insurance Company is liable to pay the compensation.

3.On the quantum, though the Medical Board had assessed the disability at 30%, the Tribunal found that the claimant, whose left leg was affected by polio has lost her right leg in accident. Since her right leg is rendered dysfunctional she is unable to walk and she has to be carried to Court. Upon seeing the status of the claimant, the Tribunal had fixed the



disability at 50% and adopted notional income of Rs.8,000/-.By adding 40% towards future prospects, the Tribunal assessed the loss of earning capacity at Rs.12,10,000/-. Considering the fact that the claimant is a 22 years old girl, who is unable to walk, the Tribunal granted a sum of Rs.3,00,000/- towards loss of marital prospects, a sum of Rs.2,00,000/- towards pain and suffering, Rs.1,00,000/- for assistance, Rs.1,21,000/- for medical expenses, Rs.18,000/- for travel expenses and Rs.25,000/- for extra nourishment. In all, a sum of Rs.19,74,000/- has been awarded.

4.The learned counsel appearing for the Insurance Company would vehemently contend that the Tribunal should have deducted certain percentage for contributory negligence. She would also further contend that since the claimant had completed her education and had obtained her graduation in Computer Sciene and has also further pursued education, the Tribunal was not right in adopting multiplier method. The learned counsel would also contend that the quantum of compensation is unreasonably high and that is because of the Tribunal adopting the multiplier method. I am unable to accept the contentions of the learned counsel for the appellant.

5.As regards the contributory negligence, the Insurance Company has not chosen to let in any evidence. No one has been examined on the side of the Insurance Company. The Tribunal has gone into the question of negligence and held that from the First Information Report, it is seen that the driver of the two wheeler was negligent and was responsible for the accident. Therefore, I do not see any reason to interfere with the findings on the negligence.

6.As regards the quantum, the learned Tribunal has found that the both legs of the claimant have become disfunctional due to the accident and she has to be carried to the Court. Considering the fact that the claimant is a 22 years old, the Tribunal had granted a sum of Rs.3,00,000/- towards loss of marital prospects and going by her condition, the Tribunal has held that the multiplier method should be adopted to asses the compensation for loss of earning capacity. The sum of Rs.8,000/- adopted as notional income, in my opinion, is very low. However, since the claimant is not on appeal, I do not propose to go into the correctness in the appeal filed by the Insurance Company.



7. I do not find any reason to interfere with the award of the Tribunal. This civil miscellaneous appeal therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:-

The Additional Motor Accident Claims Tribunal,
Puducherry.

Copy to

The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mrs.R.Rathna Thara, Advocate sr 974.

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JPL (CO)
SP (20/04/2022)