



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A (MD)No.432 of 2019

and

C.M.P (MD)No.5243 of 2019

WEB COPY

The Reliance General Insurance Company ,
through its Divisional Manager,
Sri Narayan Towers,
No.8, Selvam Nagar,
Thanjavur

:Appellant/Second respondent

.vs.

1.Sikkander

represented by his wife Biroja Begam.

: Ist Respondent/Petitioner

2.The Registrar,
Tamil University,
Trichy Road,
Thanjavur.

:2nd Respondent/Ist Respondent

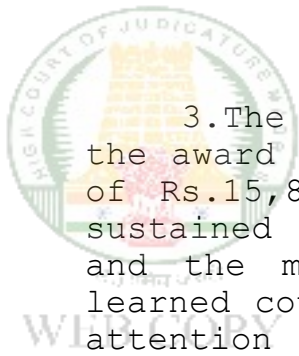
PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree made in M.C.O.P.No.978 of 2012, dated 14.03.2018, on the file of the Special Subordinate Judge (Motor Accidents Claims Tribunal) of Thanjavur insofar as the liability and quantum is concerned.

For Appellant	:Mr.V.Sakthivel
For Respondent-1	:Mr.G.Karnan
For Respondent-2	:Mr.C.Karthikeyan
	for M/s.Issac Chambers

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award and decree made in M.C.O.P.No.978 of 2012, dated 14.03.2018, on the file of the Special Subordinate Judge (Motor Accidents Claims Tribunal) of Thanjavur insofar as the liability and quantum is concerned.

2.Notice of motion was ordered on 19.06.2019. The parties are served. With the consent of both the parties, C.M.A., is taken up for final disposal. Both the parties are represented by their respective counsels.

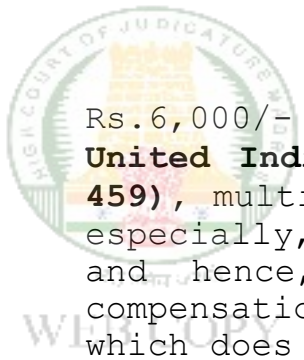


3.The Insurance Company is the appellant herein, challenging the award passed in M.C.O.P.No.978 of 2012, wherein, a compensation of Rs.15,89,000/- was awarded as compensation for the injuries sustained in the road traffic accident. The factum of the accident and the manner of the accident are not disputed. However, the learned counsel for the appellant/Insurance Company would draw the attention of this Court to the fact that at the time of accident, the injured is not wearing helmet and he has no valid driving licence.

4.On a perusal of the counter statement filed before the Tribunal, no such plea was taken and no evidence has been adduced by the respondent either by examining the staff from the Regional Transport Office or any other independent witness and hence, both the plea has been stand rejected.

5.After perusing the evidence of P.W.1, the wife of the injured, the manner of the accident as reflected in Ex.P1, I find that due to the rash and negligent driving of the driver of the car insured with the appellant/ Insurance Company, the accident has taken place and the driver of the car is having valid driving licence to drive the Light Motor Vehicle at the time of accident, as could be seen from Ex.P6-driving licence. In view of the specific and positive evidence of P.W.1., coupled with the documentary evidence Ex.P1, the manner of the accident has been clearly established and hence, the Tribunal has rightly come to the conclusion that due to the rash and negligent driving of the car, the accident has taken place and there is no suggestion put to P.W.1 that due to the non- wearing of helmet alone such grievous nature of injuries has taken place. There was no suggestion on those points raised by the learned counsel for the appellant/Insurance Company and at this appellate stage, those points cannot be entertained. Accordingly, the said plea is hereby rejected.

6.On the point of quantum of compensation, based upon the evidence of P.W.2-Doctor, coupled with the documentary evidence Ex.P3-Medical Legal Report of the Tamil Nadu Medical College and Ex.P12-Wound Certificate, the Tribunal has come to the conclusion that the permanent injuries sustained by the injured has resulted in loss of 100% earning capacity and he has also assigned reasons therefor and as per Ex.P14-Scan Report and the Scan Bills, because of the injury sustained in the accident, the injured is also suffering from loss of blood circulation, by which, consequently he has lost his speaking ability and also loss of memory and has become total vegetation and the Tribunal taking into consideration all the other aspects and the documentary evidence such as Ex.P2, Ex.P3, Ex.P8, Ex.P12 and Ex.P14, has held that the criteria fixed in ***Rajkumar's case (Rajkumar .vs. Ajaikumar and another reported in 2010 (2) TN MAC 581 SC)*** for adopting multiplier method and accordingly calculated the amount. The notional income is fixed at



Rs.6,000/- following the **Syed Sadiq's case(Syed sadiq .vs. The United India Insurance Company Limited reported in 2014(1) TN MAC 459)**, multiplier, notional income and the assessment of disability, especially, the loss of earning capacity has been duly considered and hence, this Court is of the view that the quantum of compensation awarded by the Tribunal is just, fair and reasonable, which does not require any interference by this Court.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the award made in M.C.O.P.No.978 of 2012, dated 14.03.2018, on the file of the Special Subordinate Judge (The Motor Accidents Claims Tribunal), Thanjavur. It is represented that no award amount has been deposited till date to the credit of the claim petition. In view of the above, the appellant-Insurance Company is directed to deposit the award amount, as ordered by the Tribunal, with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of the order. On such deposit being made, the claimant is permitted to withdraw the award amount so deposited, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

vsn
To

- 1) The Special Subordinate Judge,
Motor Accident Claims Tribunal, Thanjavur.
- 2) The Divisional Manager,
Reliance General Insurance Company,
Sri Narayan Towers,
No.8, Selvam Nagar, Thanjavur.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.G. KARNAN, Advocate (SR-20337 dated 22/04/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-20421 dated 22/04/2022)

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