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C.M.A.No.3198 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3198 of 2005

The Oriental Insurance Company Limited
Cuddalore

... Appellant/2nd Respondent

Vs

1.Padma alias Padmavathy

... Respondent/Petitioner

2.V.M.Prabhakaran

... Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 24.01.2003 passed in M.C.O.P.No.112 of 2001 by the Motor Accident Claims Tribunal (I-Additional Subordinate Judge) Cuddalore.

For Appellants ... Mr.S.Arun Kumar

For Respondents ... [R1]-died (Steps due)
[R2]-No Appearance

JUDGEMENT



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Aggrieved by the impugned award dated 24.01.2003 passed by the Motor Accident Claims Tribunal, (I-Additional Subordinate Judge), Cuddalore. in M.C.O.P.No.112 of 2001 the Appellant-Insurance Company has filed the present appeal questioning the quantum of compensation awarded by the Tribunal.

2. On 28.09.2000, when the claimant was walking on the left side of the road, the 1st respondent's auto-rickshaw bearing Reg.No.TN 31 A 3713 which came in the opposite direction, driven in a rash and negligent manner , dashed against the claimant thereby the claimant sustained grievous injury. Immediately after the accident, the claimant was taken to the Government Headquarters Hospital, Cuddalore for treatment. Since the claimant was not able to do the regular work after suffering the injuries, the claimant filed a claim petition before the Motor Accidents Claims Tribunal, I-Additional Subordinate Judge, Cuddalore in M.C.O.P.No.112 of 2001 claiming compensation of Rs.3,00,000/- under various heads.

3. Before the Tribunal, the claimant examined himself as P.W.1 and



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marked Ex.P.1 to Ex.P.7. No witnesses were examined on the side of the respondents nor any documents were marked. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.1,95,000/- to the claimant and has directed the Appellant-Insurance Company to pay the said compensation amount. Challenging the said award dated 24.01.2003, the Appellant/Insurance Company has filed the present Appeal.

4. Learned counsel appearing for the Appellant/Insurance Company submitted that though it is the claim of the 1st respondent/claimant that she was earning a sum of Rs.5,000/- per month, no proof of income has been produced by the claimant in order to substantiate the said claim. In the absence of any proof of income, the quantum of compensation awarded towards loss of earning capacity by applying the multiplier method is highly excessive which requires interference. Accordingly, he prayed for allowing the appeal.

5. During the pendency of the Appeal, the claimant had passed away, however, the Appellant has not taken any effective steps to implead the legal



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heirs of the claimant. Considering the pendency of the appeal which is of the year 2005, this Court is inclined to dispose of the same based on the materials available on record.

6. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded. It is the claim of the Appellant that the compensation awarded by the Tribunal is highly excessive which requires interference. In this regard, this Court perused the impugned award passed by the Tribunal whereby the Tribunal, considering the age and income of the claimant, had fixed the notional income at Rs.2,500/- per month and by applying the multiplier method, has awarded a sum of Rs.1,95,000/- (Rs.2500/- * 12 * 13 * 50%) as compensation which cannot be said to be excessive. Further, the Tribunal has fixed the disability at 50% on the basis of the deposition of the doctor P.W.2 which cannot be interfered with. By no stretch the compensation awarded in the appeal could be said to be excessive or disproportionate. Therefore, this Court is not inclined to interfere with the impugned award passed by the



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7. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 24.01.2003 passed in M.C.O.P.No.112 of 2001 is confirmed. There shall be no order as to costs in this Appeal.

18.10.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

1.The Motor Accident Claims Tribunal,
I-Additional Subordinate Judge,
Cuddalore.

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



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M.DHANDAPANI, J

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