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C.M.A.No.1494 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.09.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.M.A.No.1494 of 2018 and
C.M.P.No.11869 of 2018

United India Insurance Co. Ltd.,
Branch Office at III, 19/1, Kalpana Complex,
Birds Road, Cantonment, Trichy.

...Appellant

Vs.

1. Malarvizhi
2. R.Gowtham

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, challenging the fair and decretal order dated 20.11.2017 made in M.C.O.P.No.81 of 2013 by the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore.

For Appellant : Mrs.C.Paranthaman

For Respondents : Mrs.S.Pooja Shree for
M/s.Parthasarathy & Associates

JUDGMENT

This appeal is filed by the claimant challenging the fair and decretal order dated 20.11.2017 made in M.C.O.P.No.81 of 2013 by the Motor Accident



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Claims Tribunal, Special Subordinate Judge, Coimbatore.

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2 The appellant is the Insurance Company, first respondent is claimant and second respondent is Driver cum owner of the offending vehicle.

3 The first respondent/claimant filed a claim petition in M.C.O.P.No.81 of 2013 before the Tribunal claiming compensation of Rs.5,00,000/- for the injuries sustained by her in the accident that occurred on 06.08.2012. According to the first respondent/claimant, while she was walking on the Coimbatore to Kalapatty Road, near Sun Bakery at Nehru Nagar and when she was crossing the road from west to east, the second respondent driven the two wheeler bearing Reg.No.TN 38 BJ 1300 in a rash and negligent manner and hit the claimant, in which she sustained injuries and hence she filed the claim petition claiming Rs.5,00,000/-.

4 The claim petition was contested by the appellant/Insurance Company and they filed detailed counter denying all the allegations apart from disputing the liability.



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5 Before the Tribunal, on the side of the first respondent/claimant

P.W.1 and P.W.2 were examined and Exs.P1 to P15 were marked. On the side of the appellant/Insurance Company, no oral and documentary evidence was produced.

6 The Tribunal, on an assessment of entire evidence on record, fixed liability on the appellant/Insurance Company and awarded a sum of Rs.2,00,878/- as compensation along with 7.5% interest and directed the appellant/Insurance Company to pay the award amount. Challenging the liability and quantum, Insurance Company has filed the present appeal.

7 Learned counsel appearing for the appellant/Insurance Company restricted his submissions to the extent that the claimant has already received the medical expenses of Rs.75,000/- from MEDI ASSIST and hence he cannot claim the same again and the Tribunal ought not have granted Rs.98,878/- towards medical expenses, including the said Rs.75,000/-, which cannot be permitted by law.



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8 Learned counsel appearing for the first respondent/claimant fairly conceded that he already received a sum of Rs.75,000/- from MEDI ASISST.

9 Heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent/claimant perused the materials available on record.

10 In such view of the above submissions, this Court is inclined to reduce Rs.75,000/- in the compensation of Rs.98,878/- awarded by the Tribunal towards medical bills. Accordingly the award of the Tribunal is modified as follows:

<i>Sl. No</i>	<i>Various Heads</i>	<i>Award of the Tribunal Rs.</i>	<i>Award of this Court Rs.</i>
1.	Income Rs.7,500/- Loss of Income – 2 Months (Rs.7,500/- x 2)	15,000.00	15,000.00
2.	Compensation for grievous injuries	25,000.00	25,000.00
3.	Medical bills	98,878.00	23,878.00
4.	Pain and Suffering	50,000.00	50,000.00
5.	Transportation to Hospital	5,000.00	5,000.00
6.	Extra Nourishment	5,000.00	5,000.00
7.	Damage to Clothing	2,000.00	2,000.00
	Total	2,00,878.00	1,25,878.00



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11 Hence there shall be a direction to the appellant/Insurance

Company to deposit the award modified by this Court as above i.e.

Rs.1,25,878/- along with 7.5% interest within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, Tribunal is directed to credit the award amount directly to the account of the claimant without any formal application as per the decision of the Division Bench of this Court reported in 2016 (2) LW 561 (*The Divisional Manager, The Oriental Insurance Company Limited, Kannur, Vs. Rajesh and Others*). The appeal is accordingly partly allowed. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

26.09.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1. The Motor Accident Claims Tribunal,
Special Subordinate Judge, Coimbatore.
2. The Section Officer, V.R.Section, High Court,
Madras.



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P.VELMURUGAN. J.,

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