



WEB COPY

C.M.A.No.1332 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.07.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1332 of 2022
and C.M.P.No.9612 of 2022

Royal Sundaram General Insurance Company Limited
Subramanian Building,
2nd Floor, No.1, Club House Road,
Chennai 600 002.

...Appellant

Vs.

1.Uma
2.Baseriya

...Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.03.2022 made in M.C.O.P.No.6713 of 2016 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant : Ms.C.Harini
For Respondents : Mrs.M.Malar for R1
No appearance for R2

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the Insurance Company challenging the award dated 03.03.2022 made in M.C.O.P.No.6713 of 2016 on



the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2. The appellant/Insurance Company is the second respondent in M.C.O.P.No.6713 of 2016 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai. The first respondent filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by her in the accident that took place on 06.08.2016.

3. According to the first respondent, on the date of accident i.e., on 06.08.2016 at about 16.00 hours, while she was walking on R.G.Salai from East to West direction, Thuraipakkam, at that time, a car was driven by the driver belonging to the second respondent in a rash and negligent manner and dashed against her; that due to the said impact, the first respondent sustained grievous injuries; that the accident has occurred due to the rash and negligent driving of the driver of the car belonging to the second respondent, insured with the appellant and hence, entitled to compensation.

4. The second respondent, owner of the car remained exparte before the Tribunal.



5. The appellant / Insurance Company filed a counter statement, denying the averments made in the claim petition and stated that the amount of compensation is excessive as the claimant has not produced any proof in support of his claim.

6. It appears that in the accident, several persons were injured including the first respondent herein and all the claim petitions of the injured were taken up together and common order was passed by the Tribunal.

7. Before the Tribunal, the first respondent examined herself as P.W.2 and marked 10 documents as Exs.P10 to P20. The appellant/Insurance Company did not let in any oral and documentary evidence. The certificate issued by the Medical Board was marked as Ex.C1.

8. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to the second respondent and directed the appellant/Insurance Company being insurer of the said car to pay a sum of Rs.8,83,000/- as compensation to the first respondent.



9. Against the said award dated 03.03.2022 made in M.C.O.P.No.6713 of 2016, granting compensation to the 1st respondent, the appellant/Insurance Company has come out with the present appeal challenging the quantum of compensation awarded by the Tribunal.

10. The learned counsel for the appellant/ Insurance Company submitted that the Tribunal ought not to have considered the future prospects as the first respondent has not adduced any evidence to show that she had suffered permanent disability which prevented her from pursuing her avocation. In the absence of evidence, the future prospects awarded by the Tribunal at 40% is liable to be set aside. In any event, the compensation awarded by the Tribunal by adopting multiplier method is not correct. The Tribunal ought to have adopted percentage method for granting compensation and prayed for setting aside the award of the Tribunal.

11. Per contra, the learned counsel for the first respondent submitted that the Tribunal has correctly adopted the multiplier method. He further submitted that the Certificate issued by the Regional Medical Board which is marked as Ex.C1 shows that the first respondent suffered from 20% permanent disability. He further submitted that in view of the permanent disability suffered by the



first respondent, it has to be presumed that her future prospects were affected and hence, the future prospects awarded by the Tribunal at 40 % need not be interfered with. Hence, he prayed for dismissal of the appeal.

12. This Court finds that there is no dispute with regard to the compensation awarded by the Tribunal under other heads. There is no dispute with regard to the liability as well. The only dispute in the instant appeal is with regard to the quantum of compensation awarded under the head of disability. The Tribunal referred the first respondent to the Medical Board. The Medical Board after examining the first respondent, issued a disability certificate, which is marked as Ex.C1 stating that the first respondent suffered 20% disability. The Tribunal accepted the disability assessed by the Medical Board and the same is not interfered with. The Tribunal had taken the notional income of the first respondent at Rs.10,000/- per month as she was a student and she was taking part time tuition. The amount fixed by the Tribunal with regard to the notional income at Rs.10,000/- per month, is justified. The Tribunal has taken the future prospects at 40%. This Court on perusal of the records find that there is no evidence to show that the first respondent suffered permanent disability of such a nature which would affect her ability to carry on her avocation. In such circumstances, the addition of 40% under the head future prospects is not



justified and therefore, addition of 40% towards future prospects is liable to be set aside and it is hereby set aside. The amounts awarded by the Tribunal under all other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	6,04,800	4,32,000	Modified
2.	Medical expenses	1,60,248	1,60,248	Confirmed
3.	Future Medical Expenses	30,000	30,000	Confirmed
4.	Pain and suffering	20,000	20,000	Confirmed
5.	Transportation	10,000	10,000	Confirmed
6.	Extra Nourishment	20,000	20,000	Confirmed
7.	Damage to clothes	1,000	1,000	Confirmed
8.	Attendant Charges	2,000	2,000	Confirmed
9.	Loss of amenities	20,000	20,000	Confirmed
10.	Mental agony	15,000	15,000	Confirmed
	Total	8,83,048	7,10,248	Reduced by Rs.1,72,800/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.8,83,048/- is hereby reduced to Rs.7,10,248/- together with interest at the rate of 7.5% per annum from the date



of petition till the date of deposit. The appellant/Insurance Company is directed to deposit the modified award amount along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent is permitted to withdraw the award amount along with proportionate interest and costs, after adjusting the amount if any, already withdrawn. The appellant/Insurance Company is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P.No.6713 of 2016, if the entire award amount has already been deposited by them. No costs. Consequently, connected Miscellaneous Petition is closed.

06.07.2023

Index: Yes/No

Internet: Yes/No

vk

To

1.The Motor Accident Claims Tribunal,
VI Court of Small Causes, Chennai.

2.The Section Officer
VR Section, High Court of Madras.



WEB COPY

C.M.A.No.1332 of 20



SUNDER MOHAN,J.

vkx

C.M.A.No.1332 of 2022

06.07.2023