



C.M.A.No.2045 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.02.2023

PRONOUNCED ON : 14.03.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2045 of 2013

The Branch Manager,
M/s.New India Assurance Co. Ltd.,
No.5, Raja Mill Road,
Pollachi-642 001.

... Appellants

vs.

1.Mrs.Amutha
2.Mr.Devaraj

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P.No.1624 of 2009 dated 31.08.2012 on the file of the Motor Accident Claims Tribunal / II Additional District & Sessions Court, Coimbatore at Tiruppur.

For Appellants : Mr.E.Rajadurai
for Mr.M.Vijayaraghavan

For Respondents : Mrs.E.Harini [R1]
for M/s.Ma.P.Thangavel
R2 – Exparte

JUDGMENT

Challenging the award passed by the II Additional District & Sessions Court, Coimbatore at Tiruppur, in M.C.O.P.No.1624 of 2009



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dated 31.08.2012, the 2nd respondent/Insurance Company has preferred this appeal on the ground of quantum.

2. As regards the manner in which the accident had happened is not in dispute. The main grievance of the appellant is that the amount awarded under the head of loss of earning is on the higher side when there is no evidence as regards loss of income. The learned counsel for the appellant would urge that the disability assessed by the Doctor as well as the Tribunal is on the higher side. The amount awarded under the head of pain and sufferings and transportation are also on the higher side and may be reduced.

3. Per contra, the learned counsel for the claimant would submit that on account of injuries sustained during the accident, the claimant is not in a position to go for work at all and she suffered total loss of income. The Tribunal after taking into consideration both sides oral and documentary evidence has passed an award which is quite reasonable.

4. Heard the learned counsel on either side and perused the relevant records.



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5. On perusal of Ex.P2 - Discharge Summary, it appears that the claimant sustained deglove crush injury over her right elbow, fracture of right 1st, 2nd, 3rd and 4th ribs apart from the injury sustained over scalp. In respect of the degloved crush injury wound debridement was done besides skin grafting. The claimant who was aged about 45 years was said to be doing business in the name of Pasumai Poonga and earning Rs.15,000/- p.m., for which, no documentary evidence was marked. However, considering the age and injuries sustained by the claimant, the disability is assessed at 35% though the Doctor has assessed at 37.4%, which appears to be on the higher side. Monthly income of Rs.6,500/- fixed by the Tribunal appears to be reasonable. The following formula emerges in respect of loss of income as $\text{Rs.6,500/-} \times 12 \times 30/100 \times 15 = \text{Rs.3,51,000/-}$. Under the head of Extra Nourishment and Transportation another sum of Rs.5,000/- is granted. In all other aspects, the award of the Tribunal appears to be reasonable and I see no reason to interfere with the same. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:



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S.No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Loss of Earning Capacity	Rs. 4,09,500/-	Rs. 3,51,000/-	Reduced
2	Pain & Suffering	Rs. 40,000/-	Rs. 40,000/-	Confirmed
3	Extra Nourishment	Rs. 15,000/-	Rs. 20,000/-	Enhanced
4	Transport Expenses			
5	Loss of Amenities	Rs. 20,000/-	Rs. 20,000/-	Confirmed
	Wrong TOTAL by the Tribunal	Rs. 5,84,500/-	Rs. 4,31,000/-	
	Correct total is	Rs. 4,84,500/-		

6. Thus, the compensation awarded by the Tribunal is reduced from Rs.5,84,500/- to Rs.4,31,000/- which would carry interest at the rate of 7.5% per annum.

7. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is reduced from Rs.5,84,500/- to Rs.4,31,000/-.

(iii) The Appellant / Insurance Company is directed to deposit the



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modified compensation amount i.e., Rs.4,31,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1624 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District & Sessions Court, Coimbatore at Tiruppur, within a period of four weeks from the date of receipt of a copy of this Judgment.

(v) On such deposit being made, the 1st respondent / claimant is at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

14.03.2023

Index : Yes/No
Speaking / Non-speaking order
ssn



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To:

1. The Motor Accident Claims Tribunal,
II Additional District & Sessions Court,
Coimbatore at Tiruppur.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

R.KALAIMATHI, J.,

ssn



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Pre-delivery Judgment in
C.M.A.No.2045 of 2013

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