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C.M.A.No.4430 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :09.01.2023

Judgment Pronounced on :30.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.4430 of 2019
and
C.M.P.No.25130 of 2019

The Oriental Insurance Co.Ltd.,
UIL Building, 4th Floor,
No.4, Esplanade, Chennai – 108.

... Appellant

vs.

1.Vidhu
2.K.R.P.Agencies,
No.105, Bangalore High Road,
Beemanthangal, Sriperumbudur

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 27.08.2018 made in M.C.O.P.No.4991 of 2014 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar

For R1 :Mr.K.Varadhakamaraj

For R2 :No appearance



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JUDGMENT

This Civil Miscellaneous Appeal is filed against the award and decree dated 27.08.2018 made in M.C.O.P.No.4991 of 2014 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

2. The Insurance Company is the appellant herein challenging the award granted in M.C.O.P.No.4991 of 2014 on the ground of quantum.

3. The factum of the accident, the manner of the accident and rash and negligent driving on the part of the driver of the offending vehicle, are not disputed and hence the finding rendered by the Tribunal is hereby confirmed.

4. Heard both sides on the point of quantum and perused the materials available on record.

5. Mr.S.Arunkumar, learned counsel appearing for the appellant/Insurance Company contended that in respect of medical expenses to the tune of Rs.1,28,813/–, he has re-imbursed the same by



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way of medi-claim policy as admitted by P.W.1 in the cross-examination and hence he is not entitled for double payment in view of the decision in

C.M.A.(MD)No.729 of 2017, dated 13.04.2022 in The Manager, TATA AIG General Insurance Company Limited, Vs. Kathamuthu and another)

6. On a perusal of the evidence of P.W.2 and documentary evidence, namely Ex.P-5 medical bills, it is seen that the injured has spent Rs.1,50,000/-, out of which Rs.1,28,813/- was re-imbursed and hence she restricted her claim Rs.3368/-

7. It appears that the Tribunal has taken a view that the reimbursement is under a different contract and such a finding by the Tribunal is erroneous in law. The point regarding reimbursement has been settled in the above cited decision and accordingly, the claim petitioners are not entitled for Rs.1,28,813/- and he is entitled for medical reimbursement of Rs.3368/- only. Accordingly, the total compensation is reduced from Rs.3,03,813/- to Rs.1,78,368/-

$(Rs.3,03,813/- - 1,28,813 + Rs.3368/-) = Rs.1,78,368/-$



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S. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1.	For Permanent Disability	Rs .50,000/-	Rs. 50,000/-
2.	Transport to the Hospital	Rs. 5,000/-	Rs. 5,000/-
3.	Extra Nourishment	Rs. 20,000/-	Rs. 20,000/-
4.	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-
5.	Medical Expenses	Rs.1,28,813/-	Rs. 3,368/-
6.	Future Medical Expenses	Rs. 50,000/-	Rs. 50,000/-
	Total	Rs. 3,03,813/-	Rs. 1,78,368/-

8. In total, the claim Petitioner is entitled to a sum of Rs.1,78,368/-(Rupees One lakh seventy eight thousand three hundred and sixty eight only) with interest at the rate of 7.5% per annum from the date of Petition till date of realisation.

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the award amount from Rs.3,03,813/- to Rs.1,78,368/-.

No Costs. consequently, connected C.M.P is closed.

(ii) the appellant/Insurance Company is directed to deposit the award amount of Rs.1,78,368/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy



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of this order, less the amount, if any already deposited.

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(iii) on such deposit being made, claim Petitioners are permitted to withdraw the entire amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

30.01.2023

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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To

1. The Motor Accidents Claims Tribunal, II Court of Small Causes,
Chennai.

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



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RMT.TEEKAA RAMAN, J.,

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Judgment in
C.M.A.No.4430 of 2019 and
C.M.P.No.25130 of 2019

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