



C.M.A.(MD).No.902 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CMA(MD) No.902 of 2017
and C.M.P(MD) Nos.9637 of 2017, 5829 of 2021**

Reliance General Insurance Co. Ltd.,
Through its Branch Manager
Sri Lakshmi Complex, First Floor
Bharathi Street, Omalur Main Road
Swarnapuri, Salem

...appellant/
respondent No.2

Vs.

1.S.Timothy

... respondent/
petitioner

2.M.Sasikumar

3.T.Rajeshwarakumar

4.Reliance General Insurance Company Ltd.,
through its Branch Manager
Office at 2nd floor, Haritha Centre
D.No.965 Avinashi Road
Coimbatore

... Respondents 2 - 4/
respondents 1,3 and 4

(respondents 3 and 4 are given up in the appeal)



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 08.12.2016 in MCOP No.1426 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.T.Selvakumaran for R1

J U D G M E N T

RMT.TEEKAA RAMAN, J.

This Civil Miscellaneous Appeal is directed against the award and decree dated 08.12.2016 made in MCOP No.1426 of 2014 by the Motor Accident Claims Tribunal, Special Sub Judge, Tirunelveli.

2.Challenging the award of the tribunal on the ground of negligence and quantum of compensation, the insurance company is before this Court with this appeal.

3.The facts of the case in nutshell are as follows:

The claimant/first respondent herein met with an accident that had occurred on 24.09.2014. The claimant is a driver by profession. On



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the date of accident, he had driven the bus belong to Ganapathi Travels in with care and caution. At that time, the lorry bearing registration No.TN-34-H-9159 insured with the 2nd respondent came in a rash and negligent manner, without signal, the driver turned the lorry towards left, which hit the bus driven by the claimant/first respondent. In the said accident, the right leg was totally amputated, due to which, he has lost his earning power. Hence, he filed the petition in MCOP No.1426/2014 claiming compensation for the injuries sustained by him on 24.09.2014.

4. During trial, he has examined himself as P.W.1 and examined P.W.2 – Doctor to substantiate the permanent disability and marked Exs.P1 to P12. The insurance company filed a counter statement disputing the manner of the accident and the earning capacity of the claimant. However, they have not adduced any oral and documentary evidence to substantiate their contention.

5. Considering the oral and documentary evidence let in by the claimant coupled with the documentary evidence of Ex.R1, the evidence let in by the respondent insurance company, the tribunal has held that the



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accident had taken place due to the rash and negligent driving of the driver of the offending vehicle, which was insured with the appellant herein. Accordingly, the tribunal awarded a compensation of Rs.26,09,907/- with interest at 9% from the date of petition till the date of realization. Aggrieved by the said award, the insurance company is before this Court with this appeal.

6. We have heard the learned counsel for the appellant and the learned counsel for the respondent/claimant and perused the materials available on record.

7. As far as the negligence aspect is concerned, the tribunal has considered the oral and documentary evidence let in by both sides and has come to the conclusion that the driver of the offending vehicle was at fault and accordingly fixed the liability on the driver of the offending vehicle and hence, the contention raised by the appellant herein stands negatived.



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8. As far as the quantum of compensation is concerned, with regard to the injury sustained by the claimant/1st respondent, P.W.2 – Dr.Ramaguru has deposed that the claimant has sustained permanent disability to the extent of 100% as his right leg was amputated and Ex.P11 is the disability certificate. Ex.P2 and Ex.P3 are the discharge summaries, which go to show that he underwent surgery for removal of his leg. Ex.P7 to Ex.P10 medical bills. While Ex.P12 series – X-Ray and Exs.P5 and 6 are the scan report.

9. The tribunal, based upon the medical evidence of Doctor – P.W.2 coupled with Ex.P11 disability certificate and also taking note of the fact that the injured is a Driver by profession, has held that due to the accident, the claimant has lost his earning capacity permanently and as held in Rajkumar's case, adopted multiplier in connection with the age and arrived at a notional income of Rs.9,000/- per month at the relevant point of time. Accordingly, the loss of income arrived at by the tribunal is perfectly in order and thus, no interference is warranted. In all other heads, the award of the tribunal is just and proper.



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10. Considering the facts of the case, we find that the computation of compensation awarded by the tribunal is in accordance with the law laid down by the Supreme Court and in this view of the matter, we do not find any infirmity or illegality in the quantum of compensation awarded by the tribunal. Accordingly, we do not find any merits in this matter.

11. In the result, the Civil Miscellaneous Appeal is dismissed. It is represented that the entire award amount has been deposited. It is also brought to the notice of this Court that the first respondent/claimant has already withdrawn 50% of the award amount. The first respondent/claimant is permitted to withdraw the balance award amount along with accrued interest. No costs. Consequently connected Miscellaneous Petitions are closed.

(T.K.R.,J.) (P.B.B.,J.)
10.11.2023

NCC : Yes/No
Index : Yes/No
RR



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To

1.The Motor Accident Claims Tribunal,
Special Sub Court, Tirunelveli

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



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