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C.M.A.No.2124 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2124 of 2024

and

C.M.P.No.16284 of 2024

M/s.Reliance General Insurance Co. Ltd.,
Rep. by its Manager,
Having Office at 1st Floor,
Gee Jay Arcade, 141/71,
Thiruvenkadasamy Road, West,
R.S.Puram, Coimbatore.

... Appellant

Vs.

1.Mari Varitah
2.Balaji @ Praveenkumar
3.P.Sreemani Devi

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.08.2019 made in MCOP.No.540 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District and Sessions Judge, Coimbatore.



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For Appellant : Mrs.C.Bhuvanasundari
For Respondents : Mr.S.Arjun for R3

J U D G M E N T

*(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)*

The challenge is, by the Insurance Company, to the award a sum of Rs.11,05,640/- for the injuries caused to one Mari Varitha in a road accident that took place on 03.07.2011.

2. The injured suffered the following fractures:-

- 1. Fracture right Clavicle*
- 2. Fracture Left Clavicle*
- 3. Fracture Superior and inferior pubic Ramibilaterally*
- 4. Left Sacral Ala Fracture*
- 5. Fracture left Posterosuperior Iliac spine.*

3. Contending that the accident occurred due to the rash and negligent driving of the driver of the bus, the claimant sought for a compensation of Rs.6,00,000/-.



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4. This claim was resisted by the Insurance Company contending that there was violation of policy condition, inasmuch as the vehicle was used as stage carrier without proper permit and that was driven by another person. According to the Insurance Company, to avoid liability the owner of the bus had planted another person as the driver.

5. On the quantum, it was contended that the nature of injuries was not grievous and as such, there was no resultant disability. Hence, the compensation claimed is excessive.

6. The Tribunal on the evidence available concluded that the Insurance Company is liable to pay the compensation and on the quantum awarded a sum of Rs.7,15,640/-.

7. We have heard Mrs.C.Bhuvanasundari, learned counsel appearing for the appellant.



8. We do not think we can allow the learned counsel for the Insurance Company to re-agitate the issue regarding breach of policy condition, inasmuch as the award has been confirmed by the Division Bench of this Court in C.M.A.Nos.902 of 2020 & 677 & 680 of 2021, which are appeals by the Insurance Company against the very same award. We do not think that we could go into that question once over again. Hence, the conclusion of the Tribunal on the liability are bound to be confirmed.

9. On the quantum, the learned counsel would submit that the grant of future medical expenses has been made without any factual evidence. We have already extracted the nature of injuries suffered by the injured claimant. It is seen that she has been an inpatient for a considerable time from the date of the accident till at least December 2011. The injuries that have been adverted to above would show that these injuries require constant future medical treatment, particularly injury to the iliac spine. No doubt the Tribunal has applied the multiplier of '13' which is not correct, since the claimant was aged about 58 years. We find that the overall compensation granted is just and proper. Though it is admitted that the claimant was an inpatient for nearly six months no amount has been granted for loss of



income.

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10. Hence, we do not propose to interfere with the award of the Tribunal. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
31.07.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To

The Motor Accident Claims Tribunal,
III Additional District and Sessions Judge,
Coimbatore.



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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

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