



C.M.A.No.2062 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 16.02.2024	Pronounced on 06.03.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2062 of 2021

and

C.M.P.No.11139 of 2021

M/s.United India Insurance Co. Ltd.,
No.134, Greams Road
Chennai 600 069.

... Appellant

Vs.

1.Ruban Raj
S/o.Balasundaram
Residing at No.1205, 26th Block
K.P.Park, Chennai 600 012

2.M/s.Madha Engineering College
Kavanur, Kundrathur
Chennai District
Kanchipuram 600 069

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 20.02.2020 made in MCOP.No.2055 of 2016 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.T.G.Ravichandran (for R2)



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JUDGMENT

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The Appeal has been filed against the award and decree dated 20.02.2020 made in MCOP.No.2055 of 2016 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

2.The Insurance Company is the Appellant herein, challenging the award passed in MCOP.No.2055 of 2016 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The Insurance Company filed the above Appeal on the point of quantum. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

4.During the trial, on the side of the claim Petitioner, PW1 was



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examined, Ex.P1 to Ex.P.24 were marked and on the side of the Respondents, none was examined and no document was marked. Ex.C1 was marked as Court document.

5.Heard the learned counsel for the Insurance Company and learned counsel for the claim Petitioner.

6.It is seen from the records that the claim Petitioner/injured was examined as PW1 and Ex.C1 is the disability certificate issued by the Regional Medical Board, wherein the permanent disability suffered by the claim Petitioner was assessed at 50%. The injured diagnosed with following injuries:

“Major crush injury left hand with skin loss over dorsum extending upto fingers with loss of extensor tendor with compact grade III B.fracture dislocation Radio carpal joint with bone defect distal radius with multiple carpal bone fracture left side, radial artery injury with wrist level, blunt trauma abdomen with splenic and left kidney laceration with hemoperitoneum with intra mesenteric hematoma”

and

“Post traumatic sequelae left wrist and hand status unstable writs with absent thumb, index and middle finger extension”

As per Ex.P.5/discharge summary, the claim Petitioner was admitted in the



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Hospital on 29.02.2016 and surgery was done on 04.03.2016, 07.03.2016 & 14.03.2016 and he was discharged from the hospital on 21.03.2016. As per Ex.P.7/second discharge summary, the claim Petitioner was again admitted in the hospital from 27.05.2016 to 04.06.2016 and as per Ex.P.8/third discharge summary, the claim Petitioner was again admitted in the hospital from 07.10.2016 to 11.10.2016. Therefore, the Tribunal has rightly come to the conclusion that the claim Petitioner had suffered functional disability and fixed the disability at 40%.

7. Based upon Ex.C1 coupled with Ex.P5 to Ex.P.7, I find that the claim Petitioner had suffered functional disability, as per the ratio laid down in the ***Rajkumar Vs. Ajaykumar & another*** reported in ***2010 (2) TNMAC 581 SC***. At the time of the accident the claim Petitioner was working as Senior representative in HC & Insurance Ops.. and as per Ex.P.18/salary slip, the his monthly salary was Rs.15,781/- and net salary was Rs.13,681/- and therefore, the Tribunal has rightly fixed the monthly income at Rs.12,953/-. The Tribunal adopted “17” as multiplier, as the age of the claim Petitioner, at the time of the accident was 26. Further the Tribunal has added 40% towards future prospects of the deceased and assessed the loss of earning at Rs.14,79,750.72



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[Rs.18,134.50 x 12 x 17 x 40/100]. The same is hereby confirmed. Apart from

this, the Tribunal has awarded the following:

<i>S.No</i>	<i>Head</i>	<i>Amount</i>
1	Pain and sufferings	Rs.50,000/-
2	Extra nourishment	Rs.50,000/-
3	Transportation	Rs.16,548/-
4	Attender charges	Rs.10,800/-
5	Loss of amenities	Rs.50,000/-
6	Medical expenses	Rs.2,23,875/-
7	Damages to clothes	Rs.1,000/-

8.In total, the Tribunal has awarded a sum of Rs.18,82,000/- as compensation with 7.5% per annum, which is just and proper. Hence, the award and decree dated 20.02.2020 made in MCOP.No.2055 of 2016 by the V Judge, Court of Small Causes, Chennai, is hereby confirmed.

9.Accordingly, the Appeal is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

06.03.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order



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RMT.TEEKAA RAMAN.J,

sai

To

The V Judge
Court of Small Causes
Chennai

Pre-delivery Judgment made in
C.M.A.No.2062 of 2021
and
C.M.P.No.11139 of 2021

Dated: 06.03.2024