



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.2097 of 2024

and

C.M.P.No.16109 of 2024

M/s.Shriram General Insurance Co. Ltd.,
VCTV Main Road, Sathi Road,
Erode – 638003, Erode District.
Also, in 5-F, Sachin Plaza,
Reddiyar Block No.1,
Shri Ram Nagar, Azhagapuram,
Salem – 636 016, Salem District.

... Appellant

Vs.

1.B.Charulatha
2.Chairman,
The Kaveri Polytechnic College,
M.Kalipatti, Mecheri,
Mettur Division, Salem District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the order dated 23.12.2023 passed in MCOP.No.110 of 2018 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mettur.



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For Appellant : Ms.V.Pushpa

J U D G M E N T

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

The Insurance Company is on appeal aggrieved by the quantum of compensation awarded for the injuries caused to one Charulatha in a motor accident that occurred on 21.07.2018.

2. It is claimed that the said Charulatha was a second year B.A., (English) student in Vaishnava College for Women, Chennai and due to the accident she has lost her senses and she is in coma. Claiming that the accident occurred due to the rash and negligent driving of the driver of the college bus in which she was travelling to participate in the Inter-District Badminton Selection, the claimant sought for a compensation of Rs.75,00,000/-.



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3. The claim was resisted by the Insurance Company contending that the accident did not occur in the manner suggested and it also claimed that the nature of injuries caused has been exaggerated to claim higher compensation. The Insurance Company also pleaded that there was overloading in the college bus. Therefore, there was breach of policy condition.

4. At trial before the Tribunal, the father of the injured claimant was examined as PW1 and Exs.P1 to P25 were marked. On the side of the 2nd respondent one Ramya was examined and the insurance policy was marked as Ex.R1. On the side of the 1st respondent two witnesses were examined and Exs.R2 to R47 were marked.

5. The Tribunal upon consideration of the evidence on record concluded that the accident occurred due to the rash and negligent driving of the bus. Though it was claimed that there was overloading, only about 14 claim petitions were filed, where the permitted capacity of the bus was at 24. Therefore, the contention of the Insurance Company that the Insurance



Company cannot be made liable was rejected. The medical condition of the injured was accepted and the functional disability was assessed at 100%.

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6. Since the injured was a student, the Tribunal took the notional monthly income at Rs.20,000/- and adopted a 40% increase towards future prospects and arrived at a monthly income at Rs.28,000/-, it had applied the multiplier of '18' and arrived at the total loss of income at Rs.60,48,000/- and also awarded a sum of Rs.11,15,458/- towards medical expenses based on bills, Rs.25,000/- for transportation and Rs.10,000/- for extra nourishment. In all, the Tribunal awarded a sum of Rs.71,98,458/-.

7. We have heard Ms.V.Pushpa, learned counsel appearing for the appellant.

8. The learned counsel appearing for the appellant/ Insurance Company would vehemently contend that assumption of Rs.20,000/- as the monthly income for the accident that took place in the year 2018 is on the higher side. Therefore, according to her, the compensation awarded is also very high. The fact that there were 36 students travelling in the bus was also



urged as a ground to attack the award.

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9. We have considered the submissions of the learned counsel for the appellant.

10. We do not think we can fault the Tribunal for having taken the monthly notional income at Rs.20,000/- for the accident that took place in the year 2018. The salary of temporary employees employed by the Government was hovering around Rs.20,000/- at the relevant point of time. Moreover, once it is admitted that the injured is in coma, we should also take into account the plight of the family members of the injured and the expenses that will have to be incurred in nursing a person, who is in coma. We can pick holes in the award of the Tribunal on certain aspects, particularly, on the quantum, but, if we look on the entirety of the compensation awarded, we do not think it can be said to be on the higher side.



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11. We do not see any merit in this appeal. 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

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The Motor Accident Claims Tribunal,
Subordinate Judge, Mettur.

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