



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE K. RAJASEKAR

C.M.A.No.2680 of 2021

The Branch Manager
United India Insurance Company Limited
Branch Office,
No.22-B, PR.Sundaram Iyer Street,
Dharmapuri 636 701.

... Appellant

VS.

1. Gangammal @ Ganga
2. V. Murugan

... Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2020 made in M.C.O.P.No.804 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellant : Mr.C.Paranthaman

For R1 : Mr.V.Kumaravelan

For R2 : No Appearance



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JUDGMENT

This Civil Miscellaneous Appeal is filed by the Insurance Company/2nd respondent against the judgment and decree dated 22.01.2020 made in M.C.O.P.No.804 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

2. The first respondent is the claimant in M.C.O.P.No.804 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri. She has filed the above claim petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by her in the accident that took place on 07.06.2016. The parties herein are referred as per their litigative status before the claims Tribunal.

3. Brief facts of the case is that:-

On 07.06.2016 the claimant was travelling in the Tata Ace Vehicle bearing Registration No.TN 29 AU 2454 with the load of aluminium vessels for sale in the villages surrounding Palacode. Her minor son Madhan Kumar also travelled with her in the cabin. One Madhu was the driver. On the way to



Karimangalam to Palacode road near Angalamman Koil near Thirudampallam, a motorcycle came in the opposite side and on noticing that the driver of TATA Ace vehicle veered the vehicle towards left. The driver lost control and dashed against a bridge on the left side. Due to the impact, the claimant sustained fracture of left femur and other multiple injuries. She was treated in the Government Dharmapuri Medical College Hospital and in DNV Ortho care hospital, Dharmapuri. Even thereafter, she took treatment in other private hospitals. Claimant was aged 36 years at the time of accident and along with her husband they were selling aluminium vessels in the villages. She earned Rs.15,000/- per month. Due to the injuries, the claimant could not work as before. She is unable to sit, stand and walk freely and there is disability. Accident occurred only due to the negligent driving of the TATA Ace goods vehicle TN 29 AU 2454. The said vehicle belonged to first respondent and the same was insured with second respondent. Hence the claimant claimed compensation of Rs.10,00,000/- before the Tribunal for the injuries and disability sustained by her.

4. The Tribunal considering the pleadings, oral and documentary evidence held that the driver of the TATA Ace Vehicle belonging to the



second respondent is responsible for the accident, appellant as the insurer of the Van is liable to pay the compensation to the first respondent and awarded a sum of Rs.6,13,000/- as compensation to the first respondent.

5. Against the award dated 22.01.2020 made in M.C.O.P.No.804 of 2016, the appellant/Insurance Company has come out with the present appeal.

6. The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal failed to note that the second respondent has violated the policy conditions by permitting to carry 2 passengers in a goods vehicle and failed to note that the second respondent wilfully violated the policy conditions and provisions of the Motor Vehicles Act. The learned counsel further submitted that the quantum of compensation awarded by the Tribunal is excessive which warrants interference.

7. Owner of the vehicle remained exparte before the Tribunal.

8. Per contra, the learned counsel for the claimant submitted that there is ample evidence placed on record to show that the claimant has travelled in



the goods vehicle as a owner of the goods and she is statutorily covered for getting the compensation. The Tribunal, after considering the entire materials and witnesses, rightly awarded compensation in favour of the claimant, which is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

9. I have considered the submissions of both sides and perused the materials available on record.

10. Evidence was placed on record by examining PW1 and the claimant has stated that she travelled in the vehicle along with load of aluminium vessels. Accident occurred on 07.06.2016 at 8:00 p.m. and the same has been accepted by the Tribunal. Since there is an evidence placed on record to show that claimant is the owner of the goods transported in the vehicle as per Section 147 of the Motor Vehicles Act, the owner of the goods are authorised representatives to carry their goods in the vehicle, would statutorily cover under the policy. Considering the same, this Court accepting the findings rendered by the Tribunal that the claimant has travelled in the goods vehicle not as a gratuitous passenger and she has travelled only as a owner of the



goods. Accordingly, the Insurance Company is liable to indemnify the second respondent and pay compensation to the first respondent. Considering the nature of injuries sustained by the 1st respondent, the Tribunal referred the claimant to Medical Board, Dharmapuri and the claimant was assessed 35% permanent disability and the compensation awarded by the Tribunal by adopting multiplier method for 35% loss of earning capacity is not interfered with by this Court. The income fixed and compensation awarded under other heads also requires no interference. However, the learned counsel for the claimant agrees to give up Rs.25,000/- awarded under the head Loss of amenities. This Court is of the view that there is no other error in findings which requires interference by this Court. The amounts awarded by the Tribunal under all the other heads are just and fair and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Compensation for disability	4,09,500	4,09,500	confirmed
2.	Pain and suffering	20,000	20,000	confirmed
3.	Extra nourishment	15,000	15,000	confirmed



	expenses			
4.	Attender charges	3,000	3,000	confirmed
5.	Loss of amenities	25,000	-	Set aside
6.	Medical expenses	1,38,000	1,38,000	Confirmed
7.	Transport expenses	2,500	2,500	Confirmed
	Total	6,13,000	5,88,000	Reduced

11. With the above modification, the Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.6,13,000/- awarded by the Tribunal is hereby reduced to Rs.5,88,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. It is represented that the appellant/Insurance Company has already deposited the entire award amount to the credit of MCOP No.804 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Judge, Dharmapuri and the Insurance Company is at liberty to withdraw Rs.25,000/- along with interest and costs. The claimant/first respondent is permitted to withdraw the award amount with accrued interest, after adjusting the amount if any, already withdrawn. No costs.

23.02.2024
(1/2)

Internet : Yes/No
dpq



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K. RAJASEKAR, J.

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To

- 1.The Special District Court,
Dharmapuri.
- 2.The Section Officer,
V.R.Section,
High Court, Chennai.

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(1/2)

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