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CMA.No.514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.514 of 2023 and
C.M.P. No.4497 of 2023

United India Insurance Company Limited,
"Silingi Building"
New No.134, Old No.40-42
Greams Road, Chennai 600 006

... Appellant

VS.

1.Akilarani
2. R. Balaji

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 14.02.2020 in M.C.O.P.983/2009 on the file of the Motor Accident Claims Tribunal, VI Court, Chennai.

For Appellant : Mr. C. Paranthaman

For Respondents: No appearance



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JUDGMENT

The appellant, the United India Insurance Company Limited, Chennai, is the second respondent in M.C.O.P. 983/2009 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2. The first respondent filed the abovesaid claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of MACT Rules seeking compensation of Rs.15,00,000/- for the injuries sustained by her in a road accident that occurred on 23.11.2008.

3. According to the claimant, on 23.11.2008 she was travelling as a pillion rider in a motorcycle bearing Registration Number TN-05-J-8646 on Kolathur-Ambattur Road, Chennai and as the rider of the two wheeler drove the vehicle in a rash and negligent manner she fell down and sustained injuries all over her body. She was immediately rushed to D.R.J. Hospital, Kolathur, Chennai, where she was treated as an inpatient.



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4. According to the claimant, the accident took place due to the rash and negligent driving of the rider of the motorcycle bearing Registration Number TN-05-J-8646 and that since the said vehicle was insured with the present appellant, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to her.

5. In the Tribunal, the owner of the motorcycle remained absent and was set *exparte*. The appellant/Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor vehicles Act.

6. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the rider of the two wheeler bearing Registration Number TN-05-J-8646 and directed the appellant to pay compensation of Rs.5,83,000/- to the claimant together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal further held that the liability of the owner of the



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two wheeler and the insurance company is joint and several.

7. Aggrieved over the orders passed by the Tribunal, the present appeal has been filed by the United India Insurance Company Limited.

8. Heard Mr. C. Paranthaman, learned counsel appearing for the appellant. No representation for the respondents.

9. Mr. C. Paranthaman, learned counsel for the appellant Insurance Company contended that the rider of the two wheeler was the son of the claimant and therefore, the Insurance Company cannot be held liable to pay compensation to the claimant. His further contention is that the Tribunal had awarded an exorbitant amount of Rs.5,83,000/- to the claimant and therefore, the same has to be scaled down.

10. It is seen that though notices were served on the respondents, they did not appear before this Court either in person or through a counsel. A perusal of the records shows that the claimant is the mother of the rider of the two wheeler and FIR (Ex.P1) in Crime No. 78/TMI/09 was registered by V-5 Thirumangalam Traffic Investigation



Wing against the rider of the two wheeler for the offences punishable under Sections 337 IPC and 184 of the Motor Vehicles Act. The police also, after conducting investigation, laid a final report against the rider of the two wheeler before the VI Metropolitan Magistrate, Chennai. The rider of the two wheeler pleaded guilty of the abovesaid offences and paid the fine amount. The Tribunal, after considering these aspects, had fastened negligence on the part of the rider of the two wheeler. In the circumstances, the contention of the counsel for the Insurance Company that since the rider happens to be the son of the claimant, the Insurance Company is not liable to pay compensation cannot be accepted.

Quantum

10.1. It is seen from the records that the claimant had sustained the following injuries:

- i. Severe head injury.
- ii. Fracture in the temporal bone.
- iii. Hemorrhage in the left brain.
- iv. Frontoparietal subdural Hematoma and right parietal Burrhole.

Dr. Saravanabavanantham (P.W.2), Surgeon (General Surgery, Trauma,



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Neuro Surgery), Government Stanley Hospital, Chennai, had assessed the permanent disability of the claimant as 55%. The Tribunal after analysing the medical records, had fixed 25% of functional disability, adopted multiplier method and awarded a sum of Rs.3,78,000/- towards functional disability. The Tribunal had also awarded the following amounts under various heads.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by Tribunal</i>
1.	Functional Disability	Rs.3,78,000/-
2.	Pain and sufferings	Rs.25,000/-
3.	Extra nourishment	Rs.20,000/-
4.	Transportation	Rs.10,000/-
5.	Damages to clothes	Rs.1,000/-
6.	Attender charges (21x500)	Rs.10,500/-
7.	Medical expenses	Rs.1,08,518.88/-
8.	Loss of amenities	Rs.30,000/-
	Total	Rs.5,83,018.88/- Rounded off to Rs.5,83,000/-

The Award passed by the Tribunal cannot be said to be exorbitant and therefore the present appeal stands dismissed.



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11. In the result,

i. The Civil Miscellaneous Appeal is dismissed. No costs.

Consequently connected miscellaneous petition is closed.

ii. The Award passed by the Tribunal is confirmed.

iii. The appellant/Insurance company is directed to deposit a sum of Rs.5,83,000/- (less the amount already deposited) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order, to the credit of M.C.O.P.983/2009 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

iv. On such deposit being made, the first respondent is at liberty to withdraw the same after filing a proper petition for withdrawal.

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Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes / No

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R.HEMALATHA, J.

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To

1. Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.
2. The Section Officer, VR Section, Madras High Court, Chennai.

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