



C.M.A.(MD).No.646 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 30.07.2024

DELIVERED ON : 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.646 of 2023
and C.M.P.(MD).No.8340 of 2023

Regional Manager,
ICICI Lombard General Insurance Co Ltd.,
Bishop Sundaram Complex,
S.No.42/1A, First Floor Backside,
Pudukottai Road,
Thanjavur.

... Appellant/2nd Respondent

Vs.

1.Tamil Selvi ... 1st Respondent/Petitioner (Claimant)

2.Manikandan ... 2nd Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to call for the records pertaining to the fair and decreetal order passed by the Motor Accident Claims Tribunal / Special Subordinate Judge, Thanjavur, in M.C.O.P.No.189 of 2021, dated 29.09.2021, set aside the same.

For Appellant : Mr.P.Pethu Rajesh

For Respondents : Mr.K.Gokul for R1
R2 – No Appearance



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JUDGMENT

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This appeal has been filed against fair and decreetal order passed by the Motor Accident Claims Tribunal / Special Subordinate Judge, Thanjavur, in M.C.O.P.No.189 of 2021, dated 29.09.2021.

2.The facts in brief:

On 22.10.2020 at about 08.00 a.m. the petitioner was travelling as a pillion rider in a two wheeler bearing Registration No.PY 02 M 5063 on the Polagam – Poonthottam Road, P.Thirumalanam Main Road. At that time, a vehicle coming in the opposite direction bearing registration No.TN-50-AF-6899 was driven by its driver in rash and negligent manner and hit the two wheeler. The petitioner suffered grievous injuries on the hip and left leg region. He was taken to primary health centre, Poonthottam. Later, he underwent surgery on 04.11.2020 in the Government Medical College Hospital, Thiruvarur. He was discharged from the hospital on 12.11.2020. At the time of the accident she was an agricultural coolie by profession and getting Rs.20,000/- per month. A case in Crime No.2302 of 2020 was registered on the file of Peralam police Station. Because of the accidental injuries, the claimant



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could not continue his work as before. So claiming compensation amount of Rs.15,00,000/-, the claim application was filed.

3.That was resisted by the Insurance Company by filing a counter stating that the occurrence took place, because of the rash and negligent driving on the part of the rider of the two wheeler, wherein, this petitioner was pillion rider. Apart from that other customary denials were made.

4.At the conclusion of the enquiry process, the tribunal recorded finding that with regard to the first aspect of negligence that it occurred due to the rash and negligent driving on the part of the first respondent's vehicle's driver.

5.Regarding the compensation amount, the disability was fixed as 65% as per the disability certificate issued by the Medical Board. Considering the above said personal disability, multiplier method was adopted and 14 was taken as multiplier considering the age. The monthly income was fixed as Rs.6,000/-. For disability it was fixed as



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Rs.8,19,000/-. To that other conventional amounts were added and finally the Tribunal awarded the total compensation as Rs.9,86,000/-.

Against which the Insurance Company has filed this appeal.

6.The learned counsel for the appellant would submit that the multiplier method adopted by the Tribunal is not proper. Since there was only 65% of disability that too partial permanent disability. Her avocation was not affected by the injuries. No separate award ought to have been awarded towards pain and sufferings and discomfort, since multiplier method was adopted.

7.Per contra, the learned counsel for the respondent would submit that considering the avocation of the petitioner and nature of injuries suffered, disabilities assessed, the assessment of compensation by the Tribunal is just and reasonable, which requires no interference.

8.Regarding the first aspect of negligence, no argument is advanced by the appellant. Even from the nature of accident, the manner in which it occurred does indicate that it occurred due to the rash and



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negligent driving on the part of the first respondent's vehicle driver. So that part of the finding of the trial Court is confirmed.

9.Regarding the compensation, we will go the evidence on record. She has stated in his evidence that she was doing agricultural coolie work and earning Rs.20,000/- per month. She suffered injuries on the hip, right and left legs, which are fracture injuries. Now, she is permanently, disabled. As noted above, she was admitted in the Government Medical College Hospital, Tanjavur, wherein, she underwent surgery. It is evidence from Ex.P3, Discharge summary. She was referred to the Medical Board attached to the Government Medical College Hospital, Tanjavur and has assessed the disability at 65%. It is also noted that it is non progressive, partial permanent disability. Since there was a fracture on the left side Femur bone, the assessment was made. So considering the above said aspect of disability, when we take the profession of the claimant as agricultural coolie work, naturally her working condition could have been affected. So adopted multiplier method cannot be found fault. So the assessment of compensation for the disability suffered as Rs.8,19,000/- need not be interfered. But, towards the pain and



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sufferings, Rs1,00,000/- was awarded, which is not reasonable. So it is reduced to Rs.15,000/-. Since multiplier method was adopted no separate head is required for loss of income. Attendant charges was fixed as Rs.10,000/-. It is reduced to Rs.5,000/-. Regarding nutrition, loss of clothing, transport expenses and discomfort need not be granted in view of the multiplier method adopted. So the total compensation is recalculated and reduced as follows:

1. Compensation for the disability	- Rs.8,19,000/-
2. Pain and sufferings	- Rs. 15,000/-
3. Attendant charges	- <u>Rs. 5,000/-</u>
Total Compensation	- <u>Rs.8,39,000/-</u>

10. Accordingly, this civil miscellaneous appeal is partly allowed.

(i) The quantum of compensation awarded by the Tribunal is reduced to **Rs.8,39,000/- (Eight Lakhs Thirty Nine Thousand only)**, which shall carry interest at the rate of 7.5% per annum.

(ii) The appellant/ insurance company is directed to deposit the entire compensation of **Rs.8,39,000/- (Eight Lakhs Thirty Nine Thousand only)** (if not already deposited) together with interest at the



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rate of 7.5% per annum from the date of claim petition till the date of deposit and proportionate costs before the trial Court, within a period of two months from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant / insurance company, the first respondent / claimant is permitted to withdraw the entire award amount of **Rs.8,39,000/- (Eight Lakhs Thirty Nine Thousand only)** after following the due process of law, less any amount already received by him.

(iv) Consequently, connected miscellaneous petition stands closed.

04.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

- 1.The Special Subordinate Judge, Motor Accidents Claims Tribunal, Thanjavur.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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