



C.M.A(MD)No.767 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.767 of 2017
and
C.M.P(MD)No.7937 & 8312 of 2017

TATA AIG General Insurance Company Limited,
Peninsula Corporate Park,
Piramal Tower, 9th Floor,
Ganpatrao Kadam Marg,
Lower Parel,
Mumbai-400 013.

... Appellant/2nd Respondent

Vs.

1.R.Paranthaman

... Respondent/Petitioner

2.Logeswaran

... Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree, dated 10.02.2017 passed in M.C.O.P.No.26 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Judge), Theni.

For Appellant : Mr.B.Vijay Karthikeyan

For R1 : Mr.B.Jeyakumar



C.M.A(MD)No.767 of 2017

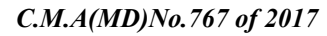
JUDGMENT

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The present appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal / Sub Court, Theni primarily on the ground of quantum.

2. It is the case of the injured claimant that he is a 23 years old Software Engineer and he has received a offer letter as a Programmer from Cognizant Technology Solutions India, Private Ltd., Chennai. As per the said offer letter, his annual package salary is Rs.3,01,500/-. The claimant was moving in his two wheeler on 13.01.2013 and another two wheeler owned by the 1st respondent and insured with the 2nd respondent in the claim petition came in a rash and negligent manner and dashed against the claimant. According to him, he had sustained head injury and multiple grievous injuries all over the body. He made a claim for a sum of Rs.40,00,000/-.

3. The Insurance Company has filed a counter challenging the liability, negligence and quantum as prayed for in the claim petition.





C.M.A(MD)No.767 of 2017

contended that the injured claimant has lost his hearing capacity to an extent of 11% and due to head injury, there is a decline in intellectual function to an extent of 36%. Considering the fact that the claimant is a Software Engineer and he has received an offer letter from Cognizant Technology Solutions India, Private Ltd., Chennai, the award passed by the tribunal is reasonable and the same may not be disturbed.

7. I have carefully considered the submissions made on either side and perused the material records.

8. The appeal has been filed by the Insurance Company primarily challenging the quantum and especially, the award passed under the head of future medical expenses and loss of income.

9. The doctor who has issued Exhibit P.14 – Disability Certificate has been examined as P.W.3 on the side of the claimant. He has been subjected to cross examination by the Insurance Company. A suggestion has been put to him that the claimant is only entitled to the benefits of 36% percentage of injury, that is decline in intellectual function. Therefore, it is clear that the Insurance Company has admitted the fact that there is a decline in the intellectual function of the injured claimant



C.M.A(MD)No.767 of 2017

to an extent of 36%. A suggestion has also been put to the said doctor that it is quite normal to have affected with fits for a person who is having 36% of decline in intellectual functions. Therefore, it is clear that the claimant was suffering from fits after he had met with the accident. A perusal of Exhibit P.4 further reveals that electroencephalography analysis report of the hospital reveals that the claimant has suffered hearing impairment and therefore, it is clear that the claimant has suffered grievous injuries which cannot be compensated. The chances of the claimant being engaged by any premium software company are very less. In such circumstances, the tribunal has rightly awarded a sum of Rs. 6,00,000/- towards loss of income. Since the claimant is suffering from fits arising out of head injury, the award of Rs.1,00,000/- towards future medical expenses cannot be said to be unreasonable. In view of the above said deliberations, there are no merits in the appeal and the award of the tribunal stands confirmed.

10. This Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

19.06.2024

NCC : Yes / No



C.M.A(MD)No.767 of 2017

Index : Yes / No
Internet : Yes / No

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To

1.The Motor Accident Claims Tribunal (Sub Judge),
Theni.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.767 of 2017

R.VIJAYAKUMAR,J.

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Order made in
C.M.A(MD)No.767 of 2017

19.06.2024