



C.M.A(MD)No.1551 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 11.07.2023

Pronounced On : 24.07.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.1551 of 2011

and

M.P.(MD)No.2 of 2011

The United India Insurance Co., Ltd.,
74 A, Salai Road, Trichy -18.

: Appellant / 2nd Respondent

Vs.

1.Margaret Mary : 1st Respondent/Petitioner

2.V.Ravindren : 2nd Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, challenging the award and decree dated 01.10.2010 made in M.C.O.P.No.1334 of 2006 on the file of Motor Accident Claims Tribunal/III Additional Sub Judge, Trichy.

For Appellant : Mr.J.S.Murali

For Respondents : Mr.N.Sudhagar Nagaraj, for R1.

: No Appearance, for R2.



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J U D G M E N T

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The Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicle Act, 1988, challenging the award dated 01.10.2010 made in M.C.O.P.No.1334 of 2006 on the file of Motor Accident Claims Tribunal/III Additional Sub Judge, Trichy.

2. The Appellant/Insurer, who was directed to pay compensation of Rs.3,49,850/- to the injured claimant for the disability suffered by her, consequent to an accident occurred on 04.02.2006, challenged the quantum of compensation awarded at by the Tribunal.

3. The main contention of the learned counsel for the appellant/insurer is that the claimant has suffered 20% of disability as per disability certificate issued to her and hence, the Tribunal ought not to have applied the multiplier method. He would further submit that there is absolutely no evidence to show that the injured was not in a position to work in any job and as such, the Tribunal has committed error in computing the compensation by adopting multiplier method.



she was not in a position to stand and sit in the floor and that she had suffered permanent disability.

7. The Tribunal, after considering the evidence available on record including the evidence of Medical Officer, has fixed the permanent disability at 20% and by adopting multiplier method, has granted Rs.2,55,980/- for loss of earning capacity.

8. As already pointed out, the main defence of the insurer is that since the claimant has only suffered 20 % of disability and there was no evidence to show that she was not in a position to do any avocation, the adoption of multiplier method is not proper and hence, the quantum arrived at by the Tribunal is liable to be interfered.

9. In Ex.A.2 wound certificate, it has been stated that the claimant has sustained major crush injury on her right foot with loss of fourth, fifth toes, distal $\frac{1}{2}$ of 3rd toe and lacerated injury on second toe and on that basis, they have given an opinion that the injuries are grievous in nature.



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10. In Ex.A.3/discharge summary issued by the KMC Hospital, it is evident that the claimant was admitted on 04.02.2006 and was discharged on 09.02.2006 and surgical procedure was done for wound debridement and shortening and closure of 2nd and 3rd toes and that the injured was also treated for multiple fracture with traumatic amputation of 2nd and 5th toes right foot.

11. It is further evident that the injured was again admitted in the KMC Hospital, on 06.03.2006 for doing SSG and was discharged on that day itself. The Medical Officer/P.W.2, who had issued disability certificate under Ex.A.20, in his evidence would say that the injured has suffered crush injury on her right foot, that the tip of toes 2 to 5 were amputated and that he has fixed the disability at 20%. In cross examination, he would say that the disability suffered by the injured is permanent in nature; that she is not in a position to do the routine work and it is very difficult to walk by placing her foot flatly on the floor.

12. The Tribunal, considering the fact that the injured had completed Computer Diploma Course and B.Com., Course and was working in First Source Company and also considering the admission



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letter and the subsequent order for restructure of salary issued by the injured's employer under Ex.A.15, has rightly fixed the monthly salary of injury at Rs.6,274/-. Considering the nature of injury and also the amputation of the toes of right foot and the nature of job, the Tribunal has rightly adopted multiplier method and arrived at Rs.2,55,980/-.

13. The Tribunal has also granted Rs.25,000/- towards pain and sufferings; Rs.15,000/- towards extra nourishment ; Rs.10,000/- towards transport expenses; Rs.15,000/-for attendant expenses; and Rs.28,870/- for medical expenses under Ex.P.5 to Ex.P.7, all totalling Rs.3,49,850/-.

14. The appellant has not disputed the amount awarded under the other heads. On considering the entire facts and circumstances, the quantum of compensation awarded at by the Tribunal cannot be found fault with and this Court is in entire agreement with the award passed by the Tribunal. Hence, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs.



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12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 01.10.2010, made in M.C.O.P.No.1334 of 200 on the file of Motor Accident Claims Tribunal/III Additional Sub Judge, Trichy, is confirmed. Parties are directed to bear their own costs. Consequently connected Miscellaneous Petition is closed.

24.07.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate),
Virudhunagar District at Srivilliputhur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

K.MURALI SHANKAR,J.



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Pre-delivery order made in
C.M.A(MD)No.1551 of 2011
and
M.P.(MD)No.2 of 2011

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