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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.14 of 2014

and

M.P.Nos.1 of 2014 and 1 of 2015

The Branch Manager,
M/s.Oriental Insurance Company Limited,
Branch Office,
No.12, Katpadi Road,
Gudiyatham,
Vellorer District 632 602.

...Appellant/Second Respondent

Vs.

1.B.S.Prakash
2.P.Krishnan

...Respondents/
Petitioner and 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, Special Subordinate Court at Krishnagiri District in M.C.O.P.No.1921 of 2013 dated 27.06.2013.

For Appellant : Mr.J.Chandran

For 1st Respondent : M/s.Mukund R.Prandian

JUDGMENT

This appeal has been preferred by the appellant/Insurance Company against the award of Rs.2,46,700/- as compensation for the injuries sustained by the first respondent in the accident occurred on 14.05.2005.



2. Heard Mr.J.Chandran, learned counsel appearing for the appellant and Mr.Mukund R.Pandian, learned counsel appearing for the first respondent.

3. The only point is to be decided with regard to the quantum of compensation awarded by the Tribunal.

4. Mr.J.Chandran, learned counsel for the appellant submitted that the accident occurred on 14.05.2005, whereas M.C.O.P. was filed after seven years. No proper medical records were filed before the Tribunal for awarding compensation.

5. However, M/s.Mukund R.Pandian, learned counsel appearing for the first respondent would submit that the first respondent had sustained head injuries. The CT Scan report has been marked as Ex.P5, it reveals that there is a brain injury viz., Traumatic SaH - Tentorial Region. Because of the head injury, respondent is often getting headache, giddiness and memory loss and he finds difficult to do hard work, therefore based on the evidence of P.W.2, the Tribunal fixed the disability at 30%. The said determination cannot be found fault with, in view of the medical records as Exs.P3 to P.5, P.8 and P.9 and the oral evidence of P.W.2

6. Though 30% disability is caused, it would not automatically lead to application of multiplier method to determine the compensation. In the absence of any loss of earning power, the application of multiplier method adopted by the Tribunal is set aside.

7. This Court awards Rs.3,000/- per percentage and awards Rs.90,000/- towards disability. Rs.20,000/- awarded towards pain and suffering, Rs.15,000/- awarded towards nutrition and transportation, Rs.13,500/- awarded towards partial loss of income, Rs.10,000/- awarded towards future medical expenses, Rs.10,000/- awarded towards attender charges are hereby confirmed and this Court awards a sum of Rs.10,000/- towards loss of amenities.

8. Therefore, a sum of Rs.2,46,700/- awarded by the Tribunal is reduced to Rs.1,68,500/- rounded off to Rs.1,70,000/- in the appeal filed by the appellant/Insurance Company. The rate of interest 6 % awarded by the Tribunal remains unaltered.

9. The appellant-Insurance Company is directed to deposit the entire amount along with interest within a period of four weeks from



the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is permitted to withdraw the entire award amount along with interest.

10. In the result, the Civil Miscellaneous Appeal is partly allowed. Consequently, connected Miscellaneous Petitions are closed. No cost.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal/
Special Subordinate Court,
Krishnagiri District.

1 CC to Mr.J.Chandran, Advocate SR.No. 12488

1 CC to M/s.Mukund R.Prandian, Advocate SR.No. 12643

C.M.A.NO.14 of 2014 and
M.P.Nos.1 of 2014 and 1 of 2015

VSN (CO)
PSI (01.04.2015)