

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2619 OF 2015
& M.P.NO.1 OF 2015

United India Insurance Co. Ltd.,
Branch Office No.2, First Floor,
104A, Peramanur Road,
Salem - 636 007. ... Appellant/2nd Respondent

Versus

1.P.Balasubramanian ...1st Respondent/Petitioner
2.C.Thangavel ...2nd Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree passed by the Motor Accidents Claims Tribunal [Fast Track Court], Namakkal in M.C.O.P.No.1288 of 2004, dated 29.01.2009.

For Appellant : Mr.S.Arun Kumar

J U D G M E N T

Mr.S.Arun Kumar, learned counsel appearing for the United India Insurance Company Limited, heavily assailing the approach adopted by the Tribunal in fixing the multiplier method contended that it cannot be applied in the present case, since the claimant, who suffered the injury, being a civil contractor is not going to physical work and on the other hand his nature of job is to manage the labourers and workers working under him, therefore, unless the Tribunal reaches a subjective satisfaction with the loss of earning capacity of the claimant, which has not been done in the case ought to have applied the multiplier method.

2.A compensation of Rs.1,68,321/- has been fixed with the interest at the rate of 7.5% from 07.10.2004 to 29.01.2009 that comes to Rs.54,533/- but this argument does not appeal to this Court, the reason is, the claimant, who met with an accident was aged about 39 years at the relevant point of time. While he was proceeding in his two wheeler bearing Registration No.TN-28-D-7007, on 29.06.2004 at about 9.00p.m., the offending lorry bearing Registration No.TN-30-X-3909, coming in the opposite direction from Trichy to Namakkal in a rash and negligent

manner, hit against the claimant. In that accident, the claimant sustained grievous injuries all over his body including fracture in his collar bone and in his right little finger.

3. Since the accident had occurred due to the rash and negligent driving made by the driver of the Lorry bearing registration No. TN-30-X-3909, after registering the F.I.R., the claimant made a claim for a sum of Rs.5,00,000/-. The Tribunal also relying upon the disability certificate showing 28% disability suffered by the claimant, who is civil contractor reaching a conclusion that he has lost his earning power fixing Rs.3,000/- as notional monthly income on the basis of the ratio laid down in Tmt. Sarla Verma's case since his age is 41 has rightly adopted the multiplier 15. This Court considering the meager amount of Rs.1,68,321/- fixed by the Tribunal for 28% disability being not unreasonable nor fanciful, is not inclined to entertain this appeal. Therefore, the Civil Miscellaneous Appeal fails and is dismissed. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

4. It is made clear that if the award amount has not been deposited till now, the appellant / Insurance Company is directed to deposit the entire award amount with accrued interest to the credit of M.C.O.P.No.1288 of 2004 on the file of the Motor Accidents Claims Tribunal [Fast Track Court], Namakkal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to withdraw the same, by making necessary applications.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
The Motor Accident Claims Tribunal [Fast Track Court],
Namakkal.

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