

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.382 of 2015

and

M.P.No.1 of 2015

The Oriental Insurance Co. Ltd.,
Branch Office,
No.3-L, Siddhaveerappa Chetty Street,
Dharmapuri - 1.Appellant/2nd respondent
in Trial Court

vs.

1.Arun Kumar
S/o.Chinnakannu1st Respondent/Petitioner
in Trial Court

2.K.N.Sivaji,
S/o.K.M.Nagarajan2nd Respondent/1st Respondent
in Trial Court

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree in M.C.O.P.No.2580 of 2013 dated 27.08.2014 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan
For Respondents: Mr.M.Selvam [R1]

JUDGMENT

The appeal has been preferred by the Insurance Company against the award of Rs.10,06,320/- as compensation for the injuries sustained by the first respondent in the accident occurred on 17.04.2012, questioning the quantum.

2. Heard Mr.N.Vijayaraghavan, learned counsel appearing for the appellant and Mr.M.Selvam learned counsel appearing for the first respondent/claimant. The only point to be decided is with regard to the quantum.

3. The Tribunal based on PW-3, Doctor's evidence, and other medical records determined the disability at 35%. It is seen that the tip of the index finger of the first respondent got damaged. For that injury, the Tribunal has fixed the disability at 35%. By no stretch of imagination, the said injury could have caused 35% disability and hence, the same is reduced to 20%.

4. The Tribunal taking Rs.10,000/- as monthly income and applying the multiplier '18' as per the age of the claimant, calculated the loss of income. The application of multiplier method cannot be found fault with. Since this Court fixed the disability at 20%, the loss of earning capacity would be Rs.4,32,000/- [10000 * 12 * 18 * 20/100]. The sums of Rs.50,000/- each awarded towards pain and suffering and nutrition and transportation ; Rs.20,320/- awarded towards medical expenses; Rs.25,000/- awarded towards attendant charges and Rs.50,000/- awarded towards loss of expectation of marriage life and amenities are hereby confirmed. However Rs.40,000/- awarded towards partial loss of income is deleted. The interest at the rate of 6% p.a., awarded by the Tribunal is enhanced to 7.5% p.a.

5. This Civil Miscellaneous Appeal is partly allowed by reducing the award of compensation from 10,06,320/- with interest @ 6% p.a. to Rs.6,27,320/- along with interest at 7.5% p.a. No costs. Consequently, connected miscellaneous petition is closed.

The appellant insurance company is directed to deposit the entire amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw the entire amount, after adjusting the amount if any already withdrawn.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm
To
The Motor Accident Claims Tribunal,
Special Sub Judge, Krishnagiri.

+ 1 cc to Mr. N.Vijayaraghavn, Advocate SR.16205
+ 1 cc to Mr.M.Selvam, Advocate SR.16269

JP(CO)
EU 17.04.2015

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