

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 3475 of 2014

&

M.P. No. 1 of 2015

The Divisional Manager,
M/s. New India Assurance Co. Ltd.,
Bharathi Road,
Cuddalore.

..Appellant/R2

Vs.

1. Mr.R. Edward Bast

2. Mr. Arjunan

..Respondents/Claimant and R1

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 19.11.2013 passed in M.C.O.P. No. 778 of 2011 on the file of Motor Accidents Claims Tribunal (1st Additional Subordinate Judge) at Cuddalore District.

For Appellant :: Mr.J. Chandran

For Respondents :: Mr.R. Sridhar for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 2,17,215/- in favour of the 1st respondent who sustained injuries in the accident which occurred on 20.02.2011, when was hit by a car belonging to the 2nd respondent, insured with the appellant, driven in a rash and negligent manner, while he was travelling as a pillion rider in a two-wheeler.

2. The claim petition was filed seeking compensation to the tune of Rs. 12 lakhs for the injuries sustained by the 1st respondent in the said accident. On contest, the Tribunal found that the car was driven rashly and negligently and awarded a sum of Rs.2,17,215/- together with interest @ 7.5% per annum, which award is being challenged before this Court.

3. Heard Mr.J. Chandran, learned counsel for the appellant and Mr. R. Sridhar, learned counsel for respondents 1 to 3.

4. The 1st respondent/claimant sustained fracture of right femur, fracture of mandible left, fracture of right condyle right mandible, injury on right thigh and hip and other injuries all over the body. P.W.2, the Doctor, deposed that the 1st respondent sustained 58% disability and the Tribunal awarded a sum of Rs.1,16,000/- towards "Permanent Disability". However, the said determination of disability is not in tune with the injuries sustained by the claimant. Therefore, this Court reduces the percentage of disability to 38% and awards Rs.76,000/- towards "Permanent Disability". As far as the amounts awarded under other heads, namely, Rs.1000/- awarded towards "Transportation Expenses"; Rs.10,000/- awarded towards "Extra Nourishment"; Rs.2000/- awarded towards "Damage to Clothes"; Rs.12,826/- awarded, as per Ex-P7 and Rs.25,389/- awarded as per Ex-P17, towards "Medical Expenses"; Rs.25,000/- each awarded towards "Pain and Suffering" and "Loss of Amenities and Enjoyment in life" are all reasonable and stand confirmed. Hence, the award of Rs.2,17,215/- is reduced to Rs. 1,77,215/- with interest @ 7.5% per annum.

5. In fine, the Civil Miscellaneous Appeal is partly allowed. No costs. Connected M.P. Is closed.

6. The appellant Transport Corporation is directed to deposit the entire award amount, as per the modified award passed by this Court, before the Executing Court, within a period of four weeks from the date of receipt of a copy of this order. If the appellant had already deposited the amount as per the award of the Tribunal, then the excess amount shall be refunded to the appellant.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

The I Additional Subordinate Judge,
MACT Cuddalore.

1 cc to Mr. J.Chanddran,Advocate, SR.No.748

1 cc to Mr. R.SreedharAdvocate, SR.No.822

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