

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.1832 of 2009
and M.P.No.1 of 2009

The Divisional Manager,
United India Insurance Company Ltd.,
Cuddalore
.. Appellant
Vs.

1.Ramayee

2.Palanivel ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree and judgment dated 25.01.2006 made in MCOP.No.709 of 2004 passed by the Chief Judicial Magistrate, Cuddalore (Before the Additional Sub Court OP.No.906 of 2003, Cuddalore) on the file on Motor Accident Claims Tribunal, Cuddalore.

For Appellant : Mr.K.Padmanabhan
for Mr.M.J.Vijayaraghavan
For Respondents : Ms.S.Pavithra Praba
for Mr.S.Kalyanaraman for R1
R2 [Ex parte]

JUDGMENT

The Appellant is the Insurance Company, which is arrayed as second respondent before the Tribunal, challenges the quantum of award passed by the Tribunal. The minimum facts that are necessary for the purpose of disposing this appeal may be stated below.

2. The claimant/first respondent is stated to be a milk vendor, aged 45 years at that relevant time, has suffered injuries in a road accident that took place on 14.09.2002. The petitioner/claimant sought compensation of Rs.2,00,000/- and the Tribunal vide its impugned award has granted her a compensation of Rs.1,21,000/-, of which, Rs.50,000/- was awarded for the permanent disability of 25% that the claimant has suffered, which itself, the Tribunal has concluded based on the evidence

of PW2, the Doctor and Ex.P8, the certificate issued by him. Besides this, on the head of loss of earning power, the Tribunal has awarded Rs.50,000/-.

3. The learned counsel for the appellant vehemently contended that to establish the loss of earning power, there ought to be some documentary evidence indicating the nature of avocation of the claimant, the income derived by him out of the said avocation. But, there is hardly any evidence available on record to support it. He added that while the Insurance Company has a statutory obligation of paying the compensation to the victim of the road accident, it cannot be stretched to the extent to exacting a charity from it.

4. While this Court does not dismiss the legitimacy or the legality of the arguments of the learned counsel for the appellant, this Court cannot turn a blind eye to the millions of citizens who are from an unorganized sector, and under such circumstances income of accident victims from this category has to be notionally determined. The accident involved in this case has taken place in the year 2002. At this distant point of time, this Court is not enthusiastic to interfere with the award passed. Hence, the Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To:

The Motor Accident Claims Tribunal
Cuddalore.

+1 cc to M/S.M.J.Vijayaraghavan Advocate sr 66872

+1 cc to M/s.S.Kalyanaraman Advocate sr 67148

C.M.A.No.1832 of 2009

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