

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2016

CORAM

THE HON'BLE MR.JUSTICE N. SESHASAYEE

C.M.A.No.4194 of 2008
and MP.No.1 of 2008

National Insurance Co. Ltd.,
751, III Floor,
Mount Road,
Chennai - 600 002.

..Appellant/2nd Respondent

Vs

1.R.Udayakumar

2.Bala Vinayakar Enterprises,
No.57, Chithiraikulam North Street,
Mylapore, Chennai - 4 .. Respondents/Petitioner/1st
Respondent
(2nd Respondent ex parte in lower Court)

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.4511 of 2003 dated 07.02.2008 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.2, Small Causes Court Chennai

For Appellant : Mr.N.Vijayaraghavan
For Respondents : No appearance

JUDGMENT

The Civil Miscellaneous Appeal is filed by the insurer of Bajaj Tempo TN07-E-6235, which caused an accident on 28.07.2002, injuring 24 years old fisherman against an award for Rs.1,23,500/- for assessed disablement of 35% arising out of fracture of right clavicle questioning that it was too high. The complaint is that PW2, the doctor was a stock witness in such proceedings and the certificate of disability was exaggerated.

2. This Court is unable to countenance this submission. Fundamentally, there was no contra evidence to the evidence of the expert doctor. The Tribunal went by the testimony as it

may have had to. Further, even assuming that the assessment of disability was padded up, the ultimate award, in comparison to the awards of today is modest. It is not denied by the insurer that Rs.3,000/- per percentage has become the standard or norm for consistency and convenience for disablement, apart from other heads as held in 2013(2) TNMAC 583 (Mad). If so, the award for Rs.1,23,500/- would be easily reached in this case even if the percentage of disability was scaled down.

3. By no stretch of imagination would this award qualify to be in the inordinately high or unconscionably so category to warrant interference. This Court finds it easy to confirm the award and dismiss the appeal as being without substance. The appellant has already deposited the award sum and the claimant would be entitled to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To:

The Motor Accidents Claims Tribunal,
Additional District Judge, Fast Track Court No.2
Small Causes Court
Chennai.

+1 cc to Mr.N.Vijayaraghavan Advocate sr 72951

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