

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1298 of 2017

The Divisional Manager,
The United India Insurance Co. Ltd.,
No. 13A, Nethaji Road,
Cuddalore District.

..Appellant/2nd Respondent

Vs.

1. Mohamed Sharuk ..1st respondent/Petitioner
2. S. Ibrahim ..2nd Respondent/1st respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 10.09.2015 passed in M.C.O.P. No. 185 of 2013 by the learned Motor Accidents Claims Tribunal (II Additional Subordinate Judge), at Cuddalore District.

For Appellant :: Mr.J. Chandran

For Respondents:: Mr.R. Sreedhar for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company as against the award of Rs.2,50,700/- passed by the Motor Accidents Claims Tribunal (II Additional Subordinate Judge), Cuddalore, for the injuries sustained by the 1st respondent/claimant in the accident, which occurred on 13.12.2012.

2. Heard Mr. J. Chandran, learned counsel for the appellant and Mr.R. Sreedhar, learned counsel for the 1st respondent.

3. Since the appeal has been filed questioning only the quantum, the finding rendered by the Tribunal, with regard to the negligence aspect, is not gone into.

4. In the accident in question, the 1st respondent/claimant sustained fracture of left knee joint , abrasion of left shoulder and other injuries. The Tribunal, based on P.W.2 Doctor's evidence, determined the disability to an extent of 40%. Since the claimant was aged about 19 years, the Tribunal applied multiplier method and awarded a sum of Rs.1,51,200/-

towards "Loss of Earning Capacity", which is unwarranted. Therefore, the amount awarded towards "Loss of Earning Capacity" is set aside and instead, a sum of Rs.1,20,000/- @ Rs.3000/- per percentage of disability is awarded. Likewise, the sum of Rs.42,000/- awarded towards "Loss of Amenities" is on the higher side and the same is reduced to Rs. 23,200/-. As far as amounts awarded under other heads are concerned, they are reasonable and hence, confirmed. In all, a sum of Rs. 2,00,700/- is awarded as compensation to the 1st respondent. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

5. The appellant is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to pay the amount directly to the 1st respondent/claimant, through RTGS, after getting the details of his bank account, within a period of one week thereafter.

6. In the result, the Civil Miscellaneous Appeal is partly allowed reducing the compensation awarded by the Tribunal from Rs.2,50,700/- to Rs.2,00,700/- with interest @ 7.5% per annum.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
The II Additional Subordinate Judge, Cuddalore.

2. The Section Officer
VR Section
High Court, Madras

+1 CC to Mr.J. Chandran, Advocate sr 23792
+1 CC to Mr.R. Sreedhar, Advocate sr 23821

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