

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.26.08.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1284 of 2013

&

M.P.No.1 of 2013

United India Insurance Co.,
Chennai.

.... Appellant/2nd Respondent

vs.

1.B.Nizamudeen1st Respondents/Petitioner

2.P.Narayanasamy2nd Respondents/1st Respondents
(2nd respondent exparte before
Lower Court and hence, Notice
may be dispensed with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 13.05.2005 made in MCOP.No.279 of 2005 on the file of the Motor Accident Claims Tribunal Additional District Court & Fast Track Court No.2, Cuddalore.

For Appellant : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

For Respondents : Mr.P.Mani for R1
R2 - Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This appeal has been filed by the Appellant insurance company challenging the impugned award dated 13.05.2005 passed by the Motor Accident Claims Tribunal (Additional District Court & Fast Track Court No.2, Cuddalore) in MCOP.No.279 of 2005.

2. Heard Mr.E.Rajadurai, learned counsel representing Mr.N.Vijayaraghavan, learned counsel for the Appellant and Mr.P.Mani, learned counsel for the first respondent. The second respondent remained exparte both before the Tribunal as well as this Court.

3. According to the Appellant, the quantum of compensation awarded by the Tribunal to the first respondent/claimant is excessive. The Tribunal under the impugned Award has awarded a compensation of Rs.3,34,990/- together with interest and costs to the first respondent/claimant as detailed hereunder:

Heads	Award amount (Rs.)
Disability	30,000/- (1000 x 30%)
Loss of earning capacity	2,52,000/- (1500 x 12 x 14)
Medical bills	41,990/-
Extra Nourishment	5,000/-
Pain and Suffering	15,000/-
Total	3,43,990/-

4. The first respondent/claimant sustained crush injury in his right foot and also sustained compound fracture of first and second metatarsam, right side with lacerated injury in his right leg with crush injury on his right thumb and injuries in his forehead, right fore arm and other injuries all over the body as a result of the accident on 18.12.2002 caused by a vehicle owned by the second respondent insured with the Appellant. He preferred a claim before the Motor Accident Claims Tribunal for the injuries sustained by him as a result of an accident and the Motor Accident Claims Tribunal passed the aforementioned award.

5. The first respondent/claimant was doing the business of buying and selling of wood and was aged 22 years at the time of the accident and in his claim petition, he had pleaded that he was earning Rs.10,000/- per month.

6. Before the Tribunal, the first respondent/claimant has filed eleven documents which were marked as Ex.P1 to Ex.P11 and two witnesses were examined on his side namely the first respondent/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant/insurance company, neither any document was filed nor any witness examined.

7. The Doctor (PW2) has assessed the disability of the first respondent/claimant at 30% as seen from the disability certificate Ex.P10 before the Tribunal. The Tribunal has accepted the same and awarded a sum of Rs.30,000/- towards disability compensation calculated at the rate of Rs.1,000/- per percentage of disability at 30% which in the considered view of this Court is a correct assessment, considering the year of the accident being 2002.

8. Since no documentary evidence was produced by the first respondent/claimant to substantiate his claim that he was earning Rs.10,000/- per month at the time of the accident, the Tribunal has assessed the notional monthly income of the first respondent/claimant at Rs.1,500/-. However, the Tribunal has adopted multiplier method for assessing the loss of earning power to the first respondent/claimant after giving due consideration to the nature of injuries sustained by him as a result of an accident. As indicated earlier, the first respondent/claimant has indeed sustained grievous injuries. He had also been hospitalised for a period of 22 days as seen from the discharge summary issued by the hospital which was marked as Ex.P8, before the Tribunal.

9. This Court is of the considered view that the Tribunal has rightly adopted the multiplier method while assessing the loss of earning power to the first respondent/claimant. The compensation awarded by the Tribunal under various heads as indicated earlier in this Judgment is also a just compensation and does not call for any interference by this Court.

10. The learned counsel for the Appellant also submits that the award amount which was deposited before the Tribunal has already been withdrawn by the first respondent. This Court after considering all the aforementioned factors, does not find any merit in this Appeal. Accordingly, this Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District Court & Fast Track Court No.2
The Motor Accident Claims Tribunal, Cuddalore.

2.The Section Officer,
VR Section, High Court, Chennai.

C.M.A.No.1284 of 2013

AD(CO)
RMP (29/12/2020)