

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 658 of 2016

and

C.M.P. No. 5407 of 2016

The Oriental Insurance Company Ltd.
R.V.K. Buildings, First Floor
No.54, Thali Road, Udumalaipet. Appellant

Vs.

1. Arumugam
2. Ravi
3. Muthumeeran Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No. 290 of 2012 dated 03.11.2014 on the file of the Motor Accident Claims Tribunal (Additional Sub Court), Tiruppur.

For Appellant : Mr. Elveera Ravindran

For Respondents : Mr. Ma.Pa.Thangavel (For R1)
R2 & R3 - given up

J U D G M E N T

This appeal has been filed against the judgment and decree in M.C.O.P. No. 290 of 2012 dated 03.11.2014.

2. The quantum of compensation is disputed by the appellant /insurance company in the present case on hand.

3. The learned counsel appearing for the appellant / insurance company mainly contended that the age fixed by the Tribunal is erroneous and not based on any documents filed by the claimant. As per Exhibit P2, discharge summary issued by the hospital the age of the injured was 61 years. This being the factum, the Tribunal has fixed monthly income as Rs. 6,000/- without any document and more so, based on the claim petition.

4. This Court is of the opinion that the age noted down in the discharge summary would be taken into account for the purpose of calculating the compensation under the head of loss of income. Thus, the same alone is to be re-consider, compensation awarded in respect of all other heads is to be confirmed. This apart, the disability is fixed as 65% by the Tribunal despite the fact that the Doctor assessed the disability as 75%. However, the Doctor has not assessed the over all body disability and therefore, by applying the multiplier the Tribunal is bound to consider the over all body disability for the purpose of calculating the compensation. Thus, 65% disability taken by the Tribunal and application of multiplier would result in excess grant of compensation and therefore, the disability percentage is to be reduced. This Court is inclined to fix over all body disability as 50% and the multiplier 7 is to be applied. Thus, the total compensation payable under the head of loss of income would be a sum of Rs.2,52,000/- and in respect of all other compensation under various heads no reconsideration is required and stands confirmed. Accordingly, the Respondent /claimant is entitled to get a total compensation of Rs.6,91,000/-.

5. It is brought to the notice of this Court by the learned counsel for the appellant/insurance company that the insurance company has already deposited the awarded amount along with the accrued interest. Thus, the claimant is permitted to withdraw the revised compensation of Rs.6,91,000/- by filing an appropriate application and the payments are to be made only through RTGS. The balance amount if any available the appellant /insurance company is permitted to withdraw the same by filing an appropriate application.

6. Accordingly, the judgment and decree dated 03.11.2014 passed in M.C.O.P. No. 290 of 2012 is quashed and the Civil Miscellaneous Appeal stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruppur.

Copy to

The Section Officer,
VR Section,
High Court, Madras.

+1cc to M/s.Ma.P.Thangavel, Advocate Sr.22310

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srg 24/11/2020



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