IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2381 of 2014
and M.P.No.1 of 2014

M/s.United India Insurance Co. Ltd.,
No.134, Greams Road,
Chennai - 6.

: Appellant/2nd Respondent

vs.

1.Thiru.K.Subramani : 1st Respondent/Claimant

2.Thiru.N.Mariyappan : 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.2968 of 2011 dated 27.09.2012 on the file of the Learned Motor Accidents Claims Tribunal, (IV Court of Small Causes, Chennai).

For Appellant : Mr.J.Chandran
For Respondents : Not ready in notice reg. R1
R2 - exparte in Tribunal

JUDGMENT
(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Insurance Company challenging the Award dated 27.09.2012 passed by the Motor Accident Claims Tribunal, (IV Court of Small Causes, Chennai), in M.C.O.P.No.2968 of 2011.

2.Heard Mr.J.Chandran, learned counsel for the Appellant. The second respondent has remained exparte both before the Tribunal as well as this Court. Since this Court is going to confirm the Award, the service of notice on the first respondent is not required and is dispensed with.

3.The Tribunal under the impugned Award has directed the Appellant Insurance Company to pay the first respondent/claimant a compensation of Rs.3,83,600/- together with interest and cost for the injuries sustained by him as a result of an accident on 14.04.2011 caused by a vehicle insured with the Appellant Insurance Company.

4.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Loss of income	-	Rs.27,000/-
Transport to Hospital	-	Rs.5,000/-
Extra nourishment	-	Rs.10,000/-
Pain and suffering	-	Rs.50,000/-
Permanent disability	-	Rs.2,91,600/-
Total		Rs.3,83,600/-

5.The Appellant Insurance Company has challenged the impugned Award on the following grounds:

(a) The Tribunal has erroneously adopted the multiplier method for assessing the compensation payable to the first respondent towards loss of earning.

(b) The Tribunal has awarded excess compensation in other heads also.

6.Before the Tribunal, the first respondent/claimant has filed five documents which were marked as Exs.P1 to P5 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 before the Tribunal.

7.In his claim petition filed before the Tribunal, the first respondent/claimant has pleaded that he was a mason aged 29 years and was earning Rs.500/- per day. However, the Tribunal has fixed the notional monthly income of the first respondent/claimant as Rs.4,500/-.

8.The first respondent/claimant has sustained the following injuries:

(a) Fracture of right femur

(b) Fracture of both bone right leg

(c) Severe head injury

(d) Multiple injuries all over his body

9.The Doctor (PW2) who assessed the disability of the first respondent/claimant has assessed the disability at 80%. The Tribunal has assessed the functional disability of the first respondent/claimant at 30%. The first respondent/claimant was hospitalised for the period between 19.04.2011 to 27.04.2011 as seen from the discharge summary issued by the Hospital which was marked as Ex.P3.

10.After giving due consideration to the nature of injuries sustained by the first respondent/claimant, the Tribunal has rightly adopted the multiplier method in arriving at the compensation towards loss of income. This Court is in agreement with the finding of the Tribunal with regard to the assessment of notional monthly income of the first respondent/claimant at Rs.4,500/-. The functional disability of the first respondent/claimant assessed by the Tribunal at 30% is a correct assessment. The Tribunal has also awarded a compensation of Rs.2,91,600/- towards permanent disability to the first respondent/claimant which is also a correct assessment.

11.The Tribunal has awarded a compensation of Rs.27,000/- towards loss of income, Rs.5,000/- towards transportation cost, Rs.10,000/- towards extra nourishment and Rs.50,000/- towards pain and suffering which cannot be considered to be excessive as the Tribunal has failed to award any compensation towards medical expenses, attender charges and loss of amenities. Therefore, the over all compensation awarded by the Tribunal under the impugned Award cannot be considered to be excessive as alleged by the Appellant.

12.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

13.Accordingly, the appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the entire amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% p.a. from the date of the claim till the date of realization to the credit of M.C.O.P.No.2968 of 2011, on the file of the Motor Accidents Claims Tribunal, (IV Court of Small Causes, Chennai), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount along with accrued interest lying to the credit of M.C.O.P.No.2968 of 2011 to the bank account of first respondent/claimant, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Motor Accidents Claims Tribunal,
   (IV Court of Small Causes, Chennai).

2. The Section Officer,
   Vernacular Section,
   Madras High Court.

C.M.A.No.2381 of 2014

VBA(CO)
CSR 21.04.2021