



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1298 of 2016

and

CMP No.9956 of 2016

1. The Divisional Manager,
The National Insurance Company Ltd.,
Door No.10, Plot No.101-106,
No.1, B.M.C. House,
Cannaught Palace,
New Delhi.

2. The Branch Manager,
National Insurance Company Limited,
No.7, Raja Street,
Veerapandi Village,
Gobi Taluk,
Erode District.

.... Appellants /Respondents 3 and 4

versus

1. Dharmaraj alias N.P. Dharmarajan

... 1st Respondent /Petitioner

2. G. Thangaraj

3. Soundarajan ... 2nd and 3rd Respondent/1st & 2nd Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree passed in MCOP.No.97 of 2011, dated 25.04.2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Gobichettipalayam.

For Appellants : Ms.N.B.Surekha

For Respondents : Mr.Ma.P.Thangavel for R1
R2 and R3 - Exparte.

JUDGMENT

This appeal has been filed by the Insurance Company challenging the award dated 25.04.2012 passed by the Motor Accident Claims Tribunal, Subordinate Court, Gobichettipalayam in MACT OP No.97 of 2011.

2. The appellant has challenged the award on the following grounds :

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a) The Tribunal has erroneously adopted the multiplier method for fixing the compensation and

b) The Tribunal has failed to take note of the fact that three persons travelled in the motor cycle which dashed against the insured car.

3. Heard Ms.N.B.Surekha, learned counsel for the appellant and Mr.Ma.P.Thangavel, learned counsel for the 1st respondent. R2 and R3 were set ex-parte before the Tribunal, hence notice to R2 and R3 are dispensed with.

4. This Court has perused and examined the impugned award.

5. The first respondent / claimant sustained a fracture in the right leg and a plate was fixed during the time of surgery, performed on him. He was a Painter and the Tribunal after giving due consideration to the evidence available on record has observed that he suffered loss of income due to the injuries sustained by him. The Doctor has assessed the disability of the claimant at 36% and based on the same and also in view of the fact that the claimant has suffered loss of income, the Tribunal has adopted the multiplier method for fixing the compensation. This Court does not find any infirmity in the same as no contra evidence has been produced by the appellant / Insurance Company before the Tribunal to disprove the contentions of the claimant with regard to the nature of injuries as well as his loss of income.

6. With regard to the 2nd contention raised by the appellant is concerned, the same is also unsustainable since, no evidence has been produced by the appellant / Insurance Company before the Tribunal. The Driver of the insured car was also not examined as a witness before the Tribunal by the appellant / Insurance Company. Therefore, this Court is of the considered view that the appellant / Insurance Company is liable to pay the compensation to the 1st respondent / claimant.

7. For the foregoing reasons, this Court does not find any merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.A.C.T.O.P. No.97 of 2011, dated 25.04.2012 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Gobichettipalayam, 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 directly to the bank account of the 1st respondent / claimant through RTGS, within a period of two weeks thereafter.

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Sd/-

Assistant Registrar (Audit)

//True Copy//

Sub Assistant Registrar

vsi2

To :

1. The Motor Accident Claims Tribunal,
Subordinate Court,
Gobichettypalayam.
2. The Section Officer,
V.R. section,
High Court, Madras - 104.

+1cc to Mr.N.B.Surekha, Advocate, S.R.No.22671

C.M.A. No.1298 of 2016

SMI (CO)
GN(29/10/2021)