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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.7.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CIVIL MISCELLANEOUS APPEAL NO.472 OF 2016

&

CMP.NO.3697 OF 2016

The Branch Manager, United
India Insurance Co. Ltd.,
Chennai-52.

...Appellant/
2nd Respondent

Vs

1.Rajesh ...1st Respondent/Petitioner

2.Thimmarayappa ... 2nd Respondents/1st Respondent

APPEAL under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal order dated 11.8.2015 in MCOP.No.2101 of 2013 o the file of the Motor Accidents Claims Tribunal (Special Subordinate Court), Krishnagiri.

For Appellant : Mr.C.Paranthaman

For Respondent-1 : Mr.Mukund R.Pandiyan

Respondent-2 : Not ready in notice

JUDGMENT

I have heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent.

2. This appeal has been filed by the Insurance Company challenging the award dated 11.8.2015 passed by the Motor Accidents Claims Tribunal (Special Subordinate Court), Krishnagiri in MCOP.No.2101 of 2013.

3. The Insurance Company has challenged the impugned award primarily on the ground that being a non schedule injury, the



Tribunal ought not to have adopted multiplier method for assessing the compensation. They also challenged the impugned award on the ground that the quantum of compensation awarded by the Tribunal under various heads is excessive.

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4. The Tribunal, by the impugned award, directed the Insurance Company to pay the claimant a total compensation of Rs.8,23,602/- as detailed hereunder :

Head	Amount in Rs.
Loss of earning capacity by fixing monthly income of Rs.6,000/- and disability at 45% and adopting the multiplier 17	5,50,800/-
Partial loss of income for at least six months	36,000/-
Pain and suffering	50,000/-
Medical expenses	91,802/-
Future Medical expenses	40,000/-
Nutrition and Transportation	20,000/-
Attender Charges	10,000/-
Discomforts and loss of amenities in life	25,000/-

5. The first respondent herein/claimant sustained the following injuries as a result of the accident on 14.5.2007 caused by a vehicle owned by the second respondent herein and insured with the appellant herein.

"(i) Type I Open 4 X 5 metacarpal fracture (right);
(ii) Type IIIB Open (right) femoral condyle + (right) tibial condyle fractures; and
(iii) Type II Open both bones fracture (right) leg".

The first respondent herein/claimant also underwent several surgeries and screws had also been fixed on his body.

6. Before the Tribunal, the first respondent/claimant filed nine documents marked as Ex.P1 to Ex.P9 and two witnesses were examined on his side namely the first respondent herein/claimant



himself as PW1 and one Dr.Devendiran as PW2. The discharge summaries issued by the hospital namely Ex.P3 to Ex.P5 would reveal that the first respondent herein/claimant was hospitalized for a long period of time. The first respondent herein/claimant was a mason by profession. Before the Tribunal, the age, avocation and the nature of injuries sustained by the first respondent herein/claimant have also not been disputed by the appellant - Insurance Company.

7. After giving due consideration of the nature of injuries referred to supra, this Court is of the considered view that the Tribunal has rightly adopted the multiplier method for the purpose of assessing the compensation to the first respondent herein/claimant. Therefore, the contention of the learned counsel for the appellant that the Tribunal ought not to have adopted the multiplier method for the purpose of assessing the compensation is rejected by this Court. The compensation awarded by the Tribunal under various other heads are also not excessive as alleged by the appellant and the total compensation amounting to Rs.8,23,602/- determined by the Tribunal cannot be considered to be exorbitant.

8. For the foregoing reasons, this Court finds that there is no merit in this appeal.

9. Accordingly, the above civil miscellaneous appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

10. It is made clear that the pay and recovery right has already been granted to the appellant by the Tribunal and the same is hereby confirmed by this Court.

11. At the time of admission of this appeal, this Court directed the appellant to deposit the entire award amount together with accrued interest thereon. In the light of the above order, the Tribunal is directed to transfer the award amount lying to the credit of the claim petition together with accrued interest directly to the bank account of the first respondent herein/claimant through RTGS within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
Deputy Registrar(R)

//True Copy//

Sub Assistant Registrar

RS



To

The Motor Accidents Claims Tribunal
(Special Subordinate Court), Krishnagiri.

+1cc to Mr.Mukund R.Pandiyan, Advocate, S.R.No.32973

+1cc to Mr.C.Paranthaman, Advocate, S.R.No.32630

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CMP.No.3697 of 2016

PL (CO)
CS/18/11/2021