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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.693 OF 2016

The Manager  
Oriental Insurance Co. Ltd  
No.89, Shree Pankaj Complex,  
Peramur Baracks Road,  
Purasawalkam, Chennai - 7.

... Appellant/2<sup>nd</sup> Respondent

Vs

1. Shankar Ganesh

...1<sup>st</sup> Respondent/Petitioner

2. J.Jayaprakash

... 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, against the award and decree dated 25.07.2014 made in M.C.O.P.No.5752 of 2011 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

ForAppellant : Mr.S.Arunkumar.

For Respondents : Mr.Sundarraja Mukund for R1  
NA for R2

#### J U D G M E N T

The Insurance Company is the appellant herein. Challenging the award passed in M.C.O.P.No.5752 of 2011 dated 25.07.2014, on the point of quantum only, the present Civil Miscellaneous Appeal is filed.

2. Heard the learned counsel for the appellant and the learned counsel for the respondents.

3. The factum of the accident, manner of the accident and the negligence on the part of the driver of the 2nd respondent are not in dispute and hence, the same is hereby confirmed.

4. From the perusal of the typed set of papers including the Judgement of the tribunal, I find that except item No.1 namely Loss of Income for 8 months, the compensation awarded on other



heads, appear to be just and reasonable.

5. Admittedly, the claimant was working as a Area Collection Manager in GE Capital as per Ex.P10 appointment Order and as per Ex.P11, his monthly income is Rs.56,155/-. Accordingly the same is rounded off to Rs.56,000/- In the absence of the any documents to show that he has not availed any medical leave or there is a reduction in salary, the lower Court has erroneously assessed loss of income and awarded Rs.4,48,000/- and the same is hereby liable to be rejected.

6. For the reasons stated above, this amount has been reduced to Rs.56,000/-, taking a notional period of absence. Now it is represented by the counsel for the appellant Insurance Company, the claimant has already withdrawn 50% for the compensation amount as per the interim order passed in C.M.P.No.5695 of 2016.

7. I find that the said amount itself is on the higher side and 50% of the same already been withdrawn and thus, the compensation awarded by the trial Court is hereby stands modified to the extent of 50% already withdrawn by the claimant. The excess amount deposited by the Insurance Company, pursuant to the interim order, is permitted to be withdrawn by the Insurance Company. Accordingly the C.M.A. is partly allowed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

The Motor Accidents Claims Tribunal, II Court of Small Causes,  
Chennai.

Copy To

The Section Officer,  
VR Section  
High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.3757

C.M.A.No.693 of 2016

CH (CO)  
PM/08/10/2021