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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.981 OF 2016

AND

C.M.P.NO.7459 OF 2016

The United India Insurance Company Limited,
Represented by its Branch Manager,
No.15-C, Sundaram Iyer Street,
Opposite to Vasam Eye Care,
Hospital, Dharmapuri.

... Appellant/2nd Respondent

.Vs.

1. A.Madhu

... 1st Respondent/Claimant

2. P.Murugan

... 2nd Respondent/1st Respondent

PRAYER:-

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against decree and the judgment dated 03.07.2015 in M.C.O.P.No.2 of 2015, on the file of the Motor Accident Claims Tribunal (Principal Sub-Judge) at Krishnagiri.

For Appellant : Mrs.R.Sree Vidhya

For R1 : No appearance

For R2 : Ms.B.Shivani
For Mr.P.Valliappan

JUDGMENT

Notice was served on the first respondent herein/claimant, paper publication was effected in respect of the first respondent, proof of paper publication has been filed and name of the first respondent was printed in the cause list. Even though, none appears for the first respondent and hence, the first respondent set ex-parte.



2. The Insurance Company is the appellant herein and the first respondent is the owner of the vehicle.

3. This appeal has been preferred by the Insurance Company on the point of quantum and hence, factum of the accident, manner of the accident, negligence on the part of the driver of the first respondent's vehicle are not in dispute and not challenged.

4. The learned counsel for the appellant/Insurance Company would contend that as per Ex.P2/wound certificate, there is no injury and Ex.P7/Disability Certificate was issued as if there was an injury and accordingly the Tribunal has awarded the compensation.

5. Before the Tribunal, during the course of enquiry, on the side of the petitioner, one Mr.A.Madhu was examined as PW1 and Dr.M.Devendiran was examined as PW2 and marked Exs.P1 to P7 and on the side of the respondents no witness has been examined.

6. Heard the learned counsel for the appellant/Insurance Company and the learned counsel for the owner of the vehicle/first respondent and perused the materials placed on record.

7. At the time of the accident, as per Ex.P3/Insurance Policy, offending vehicle was duly insured and hence, the appellant herein/Insurance Company is liable to pay compensation on the point of quantum.

8. After going through records, this Court finds that as per Ex.P2/wound certificate, there is no identification of any mark but Ex.P7/Disability Certificate was issued as if there was an injury. It also appears that the date of the accident is 16.06.1992 and MCOP was filed in the year 2014 and after 12 years Ex.P2/wound certificate was marked by PW2/Doctor and hence, it is not known whether the alleged injury has taken place due to the accident said to have been happened on 16.06.1992.

9. After perusing the quantum awarded by the Trial Court, this Court is inclined to modify the award amount and accordingly, for the accident of the year 1992, the Tribunal has awarded Rs.4,000/- per percentage disability and the same is



reduced to Rs.2,000/- and compensation under various heads are modified as under:

S. No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of earning capacity	1,80,000/-	90,000/-
2	Pain and Sufferings	50,000/-	10,000/-
3	Extra-nutrition and Transportation	40,000/-	10,000/-
4	Attendant Charges	20,000/-	5,000/-
5	Loss of Amenities and discomfort	50,000/-	5,000/-
	Total	3,40,000/-	1,20,000/-

Hence, compensation awarded by the Tribunal is modified to Rs.1,20,000/- (Rupees One Lakh Twenty Thousand Only) from Rs.3,40,000/-.

10. In the result,

(i) this Civil Miscellaneous Appeal stands partly allowed to the limited extent as indicated above.

(ii) It appears that pursuant to the order of stay, entire compensation amount (Rs.3,40,000/-), awarded by the Tribunal said to have been deposited by the appellant/Insurance Company and hence, appellant herein/Insurance Company is permitted to withdraw to balance amount viz., Rs.2,20,000/-.

(iii) No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Tribunal
(Principal Sub-Judge),
Krishnagiri.

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Copy To:

The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.11449
+1cc to Mrs.R.Sree Vidhya, Advocate, S.R.No.11644

C.M.A.NO.981 OF 2016

SSI (CO)
PBS/26/10/2021