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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CMA. NO.1465 OF 2010

M/s. United India Insurance Co Ltd,
No.13 A, Nethaji Road,
Manjakuppam, Cuddalore.

... Appellant/2nd Respondent

..VS..

1. G.Srinivasa Babu,
S/o Ramarao,

... 1st Respondent/Petitioner

2. Arunachalam,

3. Gnanasekaran,

4. The New India Assurance Co Ltd,
No.1, Bharathi Road,
Arcot Woodlands Building,
Cuddalore.

(Respondents 3 & 4 given up as
Unnecessary in CMA itself)

... Respondents 2 to 4/
Respondents 1,3 & 4

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.10.2009 made in M.C.O.P.No.1198 of 2007, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore.

For Appellant : Mr.E.Rajadurai for
Mr.N.Vijayaraghavan

For Respondent No.1,2, & 3 : Mr.Mira Aurobindo Kumur
for M/s. Ramya Rao.

For Respondent No.4 : Notice unserved



JUDGMENT

'This matter is heard through physical hearing'

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Dissatisfied with the judgment and decree, dated 23.10.2009, passed by the tribunal awarding compensation of Rs.3,74,500/- along with interest at the rate of 7.5% per annum, the Appellant/ Insurance Company is before this Court to set aside the judgment and decree by the tribunal.

2. It is the case of the claimants/ 1st Respondent herein that on 02.09.2006 at about 4.00 p.m, the Claimant-Srinivasa Babu was traveling in the 2nd Respondent's car bearing no. TN-22-AA-7102, on Chennai to Tindivanam N.H. road, near North Koochuikulathur, the driver of the vehicle drove the vehicle at a very high speed, in a rash and negligent manner, without making any horn nor following the traffic rules and regulations and hit the 3rd respondent's vehicle bearing no. PY-01-F-2989 from behind and caused the accident. Due to the accident the claimant sustained grievous injuries. The Claimant/1st respondent was immediately taken to the PIMS Hospital, Pondicherry and then transferred to Apollo Specialty Hospital, Chennai for treatment. The Claimant/1st Respondent filed petition before the tribunal, claiming compensation of Rs.10,00,000/- for the permanent disability and the injuries sustained by him in the said accident. After analyzing both oral and documentary evidences, the Tribunal has awarded Rs.3,74,500/- as total compensation along with interest at the rate of 7.5% p.a from the date of petition till realization.

3. The learned counsel appearing for the appellant/Insurance company has submitted that the tribunal has erred in accepting the version of the claimant that he was working as Chief Engineer in Neyveli and fixed the monthly income at Rs.37,000/- as claimed by the claimant/1st respondent without any salary slip or supporting evidence. The learned counsel for the appellant has further submitted that by taking monthly income at Rs.37000/-, the tribunal has granted compensation towards loss of income for six months at Rs.2,22,000/-, which is unreasonable and excessive and liable to be set aside. The compensation awarded under other heads are also required to be reconsidered by this Court.

4. On the other hand, the learned counsel appearing for the 1st respondent/claimant contented that the claimant was working as a Chief Engineer in NLC, Neyveli and the tribunal has rightly accepted and fixed the monthly salary at Rs.37,000/- and granted reasonable compensation towards loss of income for six months. Furthermore, the amount awarded under other heads by the tribunal are also based on the settled



principles of law laid down by the Hon'ble Supreme Court and this Court, hence the quantum arrived at by the Tribunal does not require any interference by this Court.

5. Heard the learned counsel appearing for the appellant/ Insurance Company and the learned counsel appearing for the 1st respondent/ claimant and perused the materials available on record.

6. On a perusal of records, it is seen that before the Tribunal, witnesses P.W.1 & P.W.2 were examined and Exhibits P1 to P8 were marked on the side of the 1st respondent/claimant, whereas exhibits R1 to R3 were marked and no witness were examined on the side of the appellant/insurance company

7. The main contention of the appellant is that the tribunal without any proof for avocation and salary, has accepted the claim made by the claimant/1st respondent and fixed the monthly income at Rs.37000/- and awarded a huge compensation of Rs.2,22,000/- towards loss of income. It is true that the 1st respondent/claimant has not produced any documents to prove his avocation and salary before the tribunal, therefore, it would not appropriate to grant the said compensation. Discussion has been made between the learned counsels appearing for both the parties and after discussion, both the learned counsels agreed to fix the monthly income at Rs.15,000/- This Court also accepts the said amount and modifies the compensation under the head loss of income for six months to Rs.90,000/- . It is seen from the records, that no contra evidence has been placed to disprove the disability certificate /Ex.P8 produced by the 1st respondent/claimant, therefore, this Court confirms the compensation granted by the tribunal for Disability at Rs.45000/-. The compensation granted at Rs.25,000/-under the head Shock and Mental Agony is also confirmed. Taking note of the nature of injuries and period of treatment, the compensation under the head 'Pain and Suffering' granted by the tribunal at Rs.45000/- is reduced to Rs.40,000/-.

8. Considering the fact that the 1st respondent/claimant was aged 45 years at the time of the accident and he was hale and healthy before the accident, this Court is inclined to enhance the compensation granted by the tribunal at Rs.7500/- each under the heads 'Nutritious Food', 'Transport Charges', 'Attender's Charges', 'Loss of Amenities' and 'Medical Expenses'. Accordingly, the compensation is enhanced to Rs.10,000/- each under the said heads. Thus, the compensation awarded by the tribunal under various heads are modifies as follows;



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Heads	Compensation granted by the Tribunal Rs.	Compensation modified by this Court
Loss of Income (Rs.37,000/- x 6 months)	2,22,000/-	90,000
Disability	45,000/-	45,000
Pain & Sufferings	45,000/-	40,000
Shock & Mental Agony	25,000/-	25,000
Nutritious Food	7,500/-	10,000
Transportation charges	7,500/-	10,000
Attender's Charges	7,500/-	10,000
Loss of Amenities	7,500/-	10,000
Medical Expenses	7,500/-	10,000
Total	3,74,500/-	2,50,000

9. In the result, this Civil Miscellaneous Appeal is partly allowed, by reducing the total amount of compensation from Rs.3,74,500/- to Rs.2,50,000/- along with interest at the rate of 7.5% per annum. The 1st respondent/claimant is entitled for compensation only as per the modification made by this Court.

10. It is represented by the learned counsel for the appellant/insurance company that the entire award amount has been deposited before the tribunal. In view of the same, the appellant/insurance company is permitted to withdraw the remaining compensation amount by filing appropriate application before the tribunal. No costs.

Sd/-
Assistant Registrar(CS-I)

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Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate Court,
(Motor Accidents Claims Tribunal)
Cuddalore.

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

CMA.No.1465 of 2010

NRL(CO)
RLP(29/09/2021)