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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.2426 of 2009
and M.P.No.1 of 2009

M/s.Royal Sundaram
Alliance Insurance
Co. Ltd., 46, Whites Road,
Chennai 14.

... Appellant/2nd Respondent

-vs-

1.Daniel Amalan
2.N.Raghunathan(Exparte in the Lower Court)
3.M.Murali (Exparte in the Lower Court)
4.Cholamandalam MS
General Insurance Company Limited,
Avnashi Road, Coimbatore.

... Respondents/ Petitioners and Respondents 1,3,4

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 31.03.2009 made in O.P.No.106 of 2004 on the file of the Motor Accident Claims Tribunal (Ist Additional Subordinate Judge) at Coimbatore.

For Appellant : Mrs.R.Sreevidhya
For Respondents: No Appearance R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 31.03.2009 made in O.P.No.106 of 2004 on the file of the Motor Accident Claims Tribunal (Ist Additional Subordinate Judge) at Coimbatore.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. On the claim petition filed by the claimant the Tribunal awarded a sum of Rs.1,21,893/- (Rupees One Lakh Twenty One Thousand Eight Hundred and Ninety Three only) as compensation



with the interest at the rate of 7.5% from the date of the petition.

4. The learned counsel for the appellant / second respondent would submit that the claim petition was filed on 19.11.2003. Thereafter, it was dismissed for default on 22.11.2004 and it was restored only on 11.07.2007. But the Tribunal failed to consider the lapses for more than 3 years on the part of the claimant and awarded interest for the compensation at the rate of 7.5% from the date of petition. Though the appeal filed questioning the quantum, only as against the interest portion alone the appeal may be considered.

5. On perusal of the records revealed that the claim petition filed on 19.11.2003 for the accident took place on 17.09.2003. Due to the accident the claimant sustained grievous injuries at his right hand bone fracture, head injury and right leg knee and both hands fracture and injury and blood injuries all over the body. Considering the same, the Tribunal awarded compensation with interest at the rate of 7.5 % per annum.

6. The claim petition was dismissed for default on 22.11.2004 and thereafter, it was restored only on 11.07.2007. Therefore, the claimant is not entitled for interest for the interregnum period between 23.11.2004 to 10.07.2007. Accordingly, the award passed by the Tribunal is confirmed and the appellant / second respondent is permitted to withdraw the interest alone for the period 23.11.2004 to 10.07.2007 by filing appropriate application before the Tribunal.

7. In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(SSA)

//True Copy//

Sub Assistant Registrar

rna

To

1.The I Additional Subordinate Judge,
Motor Accidents Claims Tribunal,Coimbatore.

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

+1 cc to M/s.R.Sreevidhya, Advocate Sr.NO. 24072

C.M.A.No.2426 of 2009
and M.P.No.1 of 2009

SRA (CO)

A.SK(08.11.2021)