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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2021

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA No.529 of 2014 and
M.P.No.1 of 2014

M/s.United India Insurance Company Ltd.,
rep. by its Divisional Manager
Having office at Katpadi Road
Vellore.

... Appellant/2nd Respondent

Vs.

1.Kannappa Mudaliar
2.V.Elumalai

... 1st Respondent/Appellant
...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the decree and judgment dated 27.01.2011 passed in MCOP No.77 of 2008 by the Subordinate Judge, Motor Accident claims Tribunal, Gudiyattam.

For Appellant : Mrs. R.Sree Vidhya

For Respondents : Mr.K.Selvaraj for R1
Notice unserved to R2

JUDGMENT

Aggrieved over the orders passed by the Tribunal, the insurance company has filed the present appeal.

2. The claimant, has filed a claim petition before the Tribunal seeking compensation of Rs.7,00,000 for the injuries sustained by him in road accident that took place on 16.06.2005.

3. The brief case of the claimant is as follows:
On 16.06.2005, at 12.00 noon, while the petitioner and his friend Gopal were standing left hand side of the mud road in front side of the Sivasakthi Hotel at Kozhapallur to Chettythangal Kuttu Road, at Pernamallur, a speedy van bearing Registration No.TN-25-X-1261 coming from Chinna Kuzhapallur to Pernamallur, hit and run over the claimant's right leg and thereby, he sustained grievous injuries in his right ankle and lacerated wounds in other parts of his body. According to the claimant, the rash and negligent driving of the driver of the van was the cause of accident and since the first respondent insured his vehicle with the second respondent,



both of them are liable to pay compensation to the claimant.

4. The Insurance company has resisted the claim petition by filing the counter affidavit.

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5. Before Tribunal, on the side of the claimant, the claimant and the doctor were examined as PW1 and PW2 respectively and Ex.P1 to Ex.P9 were marked. On the side of the second respondent, three witnesses were examined as RW1 to RW3 and Ex.R1 to R5 were marked.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.1,07,000/- as compensation to the claimant under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Permanent disability	60,000
2	Pain and Suffering	20,000
3	Medical Bills	27,000
3	Total	1,07,000

Aggrieved over the award passed by the Tribunal, the insurance company has filed the present appeal.

7. The learned counsel appearing for the appellant/ Insurance Company submitted that the entire accident was occurred due to the negligence of the claimant who had suddenly attempted to cross the road. He also submitted that the Tribunal has awarded excess amount towards Permanent disability and the other heads also and hence, he prayed to set aside the Award passed by the Tribunal.

8. The learned counsel for the 1st respondent/claimant submitted that the Tribunal, after analysing the evidence on record awarded a reasonable compensation amount to the claimant and there is no need of interference with the orders passed by the Tribunal.

9. Heard the counsel appearing for the appellant and the learned counsel appearing for the first respondent and also I have perused the materials on record.

10. A perusal of Ex.P6 wound certificate would clearly show that the petitioner sustained grievous injuries in his right leg foot and the lower leg. PW2, viz., Dr.Kosalaraman, who was examined on the side of the claimant also deposed before the Tribunal that the claimant has suffered 30% disability for the injuries sustained in the accident. Based on the evidence of PW2 doctor and the disability certificate viz., Ex.P9, the Tribunal has rightly fixed Rs.2000/- per percentage for the disability and awarded



an amount of Rs.60,000/-. The said award is fair and reasonable on the head of "Permanent disability". Apart from that, the Tribunal has also rightly awarded Rs.20,000/- towards pain and suffering and Rs.27,000/- towards medical bills and there is no error committed by the Tribunal in awarding the compensation amount to the claimant and the said compensation is fair and reasonable one. Therefore, the award passed by the Tribunal does not warrant any interference by this Court and the same is confirmed.

11. In fine,

(i) The civil miscellaneous appeal is dismissed. No costs. Connected miscellaneous petition is closed.

(ii) The appellant is directed to deposit the entire compensation amount, as awarded by the Tribunal, with interest, from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Gudiyattam.

2.M/s.United India Insurance Company Ltd.,
Divisional Manager
Katpadi Road
Vellore.

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

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.17451

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SMI (CO)
GN(18/11/2021)

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