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C.M.A.No.2920 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM:

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.2920 of 2010 and
and M.P.No.1 of 2010

The Branch Manager,
United India Insurance Co.Ltd.
Branch Office,
Pole Oriental Complex,
77, AA Street,
Salem 636 001

... Appellant

VS.

1. R.Murugan

2. P.Ramamoorthy
(2nd Respondent exparte notice given up)

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 21.02.2005 made in M.C.O.P.No.1255 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Court), Krishnagiri.

For Appellant : M/s.I.Malar

For R-1 : No Appearance

* R2 given up



C.M.A.No.2920 of 2010

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant/Insurance company, who is the 2nd respondent before the Tribunal.

2. The 1st respondent is the petitioner who filed MCOP.No.1255 of 2003 for the injuries he sustained in the accident that occurred on 24.06.2002. Injured petitioner/claimant prayed for compensation of Rs.5,00,000/-. The tribunal after trial, awarded Rs.2,95,000/- with 9% interest per annum from the date of petition till the date of deposit.

3. The appellant-insurance company filed this appeal challenging the quantum of compensation awarded to the injured. The ground is that without any basis, the tribunal awarded compensation under the heads 'permanent disability' and 'future loss of earning' which is erroneous. The compensation granted towards medical expenses, future medical expenses to the claimant is without any documentary proof.



C.M.A.No.2920 of 2010

4. A perusal of the award passed by the tribunal would reveal that

P.W.2 doctor who examined P.W.1-injured gave evidence that in the accident, the petitioner's right leg middle tibia and fibula bone fractured and sustained grievous injuries. Even after treatment the bones malunited and right leg shortened by 1 cm., which is causing severe pain to the injured and unable to walk fast, unable to squat and do the normal work as before. The doctor assessed 35% permanent disability and issued disability certificate which is marked as Ex.P.5. The other documents to prove the grievous injuries sustained by the injured petitioner were marked as Ex.P.6-X ray and Ex.P.2- Wound certificate.

5. The tribunal taking note of the exhibits and oral evidence of the injured and the doctor who treated the injured awarded Rs.1,00,000/- for the injuries he sustained in the course of accident, Rs.4000/- for the loss of income caused during the period of treatment, Rs.5,000/- for transport expenses, Rs.10,000/- for nutrition, Rs.2000/- for damages caused to personal belongings of the injured, Rs.30,000/- for medical expenditure, Rs.10,000/- for future medical treatment, Rs.50,000/- for pain and suffering, Rs.50,000/- towards permanent disability, Rs.34,000/- towards



C.M.A.No.2920 of 2010

future loss of income due to disability and in all, Rs.2,95,000/- to the injured petitioner.

6. Insofar as the quantum of compensation awarded to the injured petitioner/1st respondent herein is concerned, the Tribunal took into consideration the nature and severity of injury sustained by him who is working in the private company and after the accident, he could not carry on hard work and facing loss of income in the avocation. On this basis, the Tribunal fixed the compensation of Rs.1,00,000/-for the injuries sustained by him and in all Rs.2,95,000/- as compensation. Therefore, this amount cannot said to be higher.

7. In the light of the above discussion, I do not find any justifiable ground to interfere with the Award passed by the Tribunal. Accordingly, the appellant-Insurance company shall deposit the award amount passed by the tribunal, with interest at the rate of 7.5% per annum, less the amount if any already deposited, within a period of 8 weeks from the date of receipt of a copy of this order.



C.M.A.No.2920 of 2010

8. In the result, except for modification in respect of interest, other aspects of the award stand confirmed. The 1st respondent-petitioner is entitled to withdraw the award amount along with proportionate interest. The appeal is dismissed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

13.04.2022

Index : Yes/No

Internet : Yes / No

msv/nvsri

To:-

1) The Motor Accident Claims Tribunal
(Sub Court), Krishnagiri.

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



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C.M.A.No.2920 of 2010

J.NISHA BANU, J.,

nvsri

Judgment made in
C.M.A.No.2920 of 2010

Dated:
13.04.2022