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CMA.1362 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.1362 of 2013
and M.P.No.1 of 2013

The United India Insurance
Company Limited
Cuddalore-1

..Appellant/1st respondent

Vs

1.S.Vasanth

.. 1st respondent/ Petitioner

2.M/s.Vellore Roller Flower Mills (P) Limited
Vellore-6
respondent

.. 2nd respondent./1st

PRAYER: CMA filed against the award and decree dated 27/09/2005 made M.A.C.T.O.P.No.50 of 2005 on the file of the Additional District Court (Fast Track Court No.2) Cuddalore.

For appellant : Mr.SJ.Jagadev



CMA.1362 of 2013

For respondents : No appearance

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JUDGMENT

The insurance company has filed this appeal challenging the quantum of compensation awarded to the claimant/1st respondent.

2. The 1st respondent/injured claimant suffered accident on 17.02.2003 at 6.20 p.m., while he was going in his bicycle on the Cuddalore to Panruti road, whereby, the offending vehicle of the 2nd respondent herein came from behind and driven in a negligent manner hit the petitioner's bicycle, due to which, the victim suffered fracture and grievous injuries.

3. In the MCOP filed by the 1st respondent, the 18 year old injured sought compensation of Rs.3,00,000/-. After trial, the Tribunal found that the accident occurred due to the negligence of the 2nd respondent herein and awarded compensation of Rs.1,54,000/- under the following



CMA.1362 of 2013

heads:-

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Loss of income due to permanent disability	: 1,44,000/-
Pain and suffering	: Rs.5,000/-
Damages	: Rs.5000/-
Total	: Rs.1,54,000/-

4. As against the compensation awarded under the head permanent disability, the insurance company/appellant filed this appeal, raising the ground that compensation awarded is on the higher side and not proportionate to the disability suffered by the injured.

5. The learned counsel for the appellant would submit that the tribunal erred in adopting multiplier method for the victim who suffered only 10% disability due to the fracture sustained in the accident. The learned counsel therefore, submitted that the award is excessive and same has to be reduced.



CMA.1362 of 2013

6. The court records would go to show that the 1st respondent-injured has not been served till date.

7. This court gone through the entire typed set of papers and found that the injured victim was aged 18 years old at the time of accident. P.W.2 doctor opined that the injury caused to radial bone on the head and right hand elbow are severe in nature and assessed 15% permanent disability. Further Ex.P.8 – Disability certificate, Ex.P.9-X ray would go to show that the nature of injury and disability caused are serious in nature. There is malunion of radial bone on the head. Injured victim was not able to lift heavy things and restricted movement of right hand would cause serious damages in his day to day life. In such circumstances, the learned Judge, Tribunal, after taking note of the evidence of the victim, doctor and the medical records, found that applying multiplier method would meet ends of justice. Accordingly, applied multiplier 12 , taken Rs.1000/- as monthly salary and calculated the loss of income due to permanent disability as under:-



CMA.1362 of 2013

1000 x 12 x 12 = 1,44,000/-.

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The above finding of the learned Judge, is perfectly in order and needs no interference.

8. Finding no merits in the appeal filed by the appellant/insurance company, the Civil Miscellaneous Appeal deserves to be dismissed. Accordingly, the appeal stands dismissed. This court while admitting the appeal granted interim stay on condition that the appellant deposits the entire award amount with accrued interest and further permitted the 1st respondent/claimant to withdraw 50% of the amount. In view of the same, the 1st respondent is now entitled to withdraw the balance award amount lying in the deposit with accrued interest. Interim stay stands vacated. No costs.

17.03.2022

nvsri



CMA.1362 of 2013

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- 1.The Additional District Judge (Fast Track Court No.2) Cuddalore.
- 2.The Section Officer, VR Section, High Court, Madras.



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CMA.1362 of 2013

J.NISHA BANU,J.

nvsri

C.M.A.No.1362 of 2013

17.03.2022