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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2022

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A.NO.2497 OF 2019

AND

C.M.P.NO.11756 OF 2019

United India Insurance Co. Ltd.,
PPS Complex First Floor,
Mettur Main Road, Omalur,
Salem-636 455.

... Appellant/
2nd Respondent

vs.

1. A.Sakthivel

... 1st Respondent/Claimant

2. P.Narayanan

... 2nd Respondent/1st Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against award and decree dated 11.08.2018 made in MCOP No.317 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Judge), Dharmapuri.

For Appellant : Mr.A.Dhiraviyanathan

For Respondents : Mr.S.Sathiyaseelan [R1]
R2 Served - No Appearance

JUDGMENT

The Insurance Company is the appellant before this Court challenging the award passed in MCOP No.317 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Judge), Dharmapuri.



2. The award is challenged on the ground of quantum. The learned counsel for the appellant would submit that the Tribunal below has erred in adopting the multiplier method in arriving at the compensation for future loss of income. The claimant has sustained only injuries to his left leg which is not resulted in permanent disability and therefore, adoption of the multiplier method is wrong and the Tribunal below ought to have awarded the compensation on percentage basis.

3. Heard the learned counsel on either side and perused the records.

4. Ex.P2 discharge summary of Ganga Medical Centre and Hospital, Coimbatore shows the claimant has suffered the following injuries:

'Major Circumferential degloving injury of left leg Extending from Distal thigh to middle 3rd - Distal 3rd junction of leg with division of EHL and anterior tibial vessels with skin and soft tissue loss with fore foot sole degloving of left foot.'

5. The Tribunal also observed that the photographs taken at the Ganga Medical Centre and Hospital which has been marked as Ex.P12 would show that the magnitude of the injury sustained by the claimant. The Court has also observed the claimant when he had appeared for giving evidence. It is also to be taken note of that the claimant was working as car driver and was also doing agricultural work. The injury sustained by him is definitely render him incapable of carrying on his earlier avocation. The evidence of the claimant has not been rebutted.

6. The Court below has however taken note of the fact that no proof has been produced to show the income of the claimant and the Tribunal below has arrived at a notional income of Rs.6,500/-. Since the injury sustained by the claimant and the disability is a partial permanent one, the Tribunal below has rightly adopted the multiplier method and therefore, this Court does not intend to re-appreciate the said findings of the Tribunal.

7. In all the award passed by the Tribunal is very reasonable and accordingly, this Civil Miscellaneous Appeal is dismissed and the award and decree dated 11.08.2018 made in MCOP



No.317 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Judge), Dharmapuri is confirmed. No costs. Consequently, connected civil miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Motor Accident Claims Tribunal,
(Special District Judge),
Dharmapuri.

C.M.A.No.2497 of 2019
and
C.M.P.No.11756 of 2019

RSV(CO)
PM/07/04/2022