



C.M.A.No.1064 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1064 of 2022

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C.M.P.No.7822 of 2022

M/s.Liberty General Insurance Limited,
Anmol Palani, No.88,
G.N.Chetty Road,
T.Nagar, Chennai – 600 017.
...Appellant

Vs

1.R.Abbas

2.S.Gurunathan

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the order in E.C.No.363 of 2017 dated 04.01.2022 on the file of Commissioner for Employees Compensation, Deputy Commissioner of Labour – II, Chennai.

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For Appellant : Mrs.Harini
for M.B.Gopalan Associates

For Respondent 1 : Mr.P.Subramaniyan

For Respondent 2 : No Appearance

JUDGEMENT

The Insurance Company is the appellant before this Court and have challenged the quantum of compensation granted particularly the percentage of disability assessed by the Medical Board and adopted by the Commissioner for Employees Compensation, Deputy Commissioner of Labour II, Chennai.

2. Heard the learned counsels on both the sides.

3. The injuries sustained by the 1st respondent / petitioner is Grade 2 compound fracture both bones distal legs and the Tribunal

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had relied upon the evidence of P.W.2, Doctor who has assessed the disability at 40%. The assessment does not appear to have been done as per the rules framed and further the injury is only a Grade 2 compound fracture. Therefore, assessment of disability at 40% is rather on the higher side and the same is reduced to 25%.

4. The award of the Commissioner for Employees Compensation, Deputy Commissioner of Labour II, Chennai in E.C.No.363 of 2017 is modified to the extent that the disability is assessed at 25% instead of 40%. Therefore, the modified compensation would be a sum of Rs.2,36,472/-, calculated as under:

<i>Heads</i>	<i>Award of the Commissioner</i>	<i>Award of the High Court</i>
Monthly Income	Rs.8,000/-	Rs.8,000/-
Disability	40%	25%
Loss of Income	$8000 \times 60/100 \times 197.06 \times 40\% =$ Rs.3,78,355/-	$8000 \times 60/100 \times 197.06 \times 25\% =$ Rs.2,36,472/-

In all other respects, the award of the Deputy Commissioner of



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Labour II, Chennai stands confirmed.
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5. The Insurance company is directed to deposit the modified award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of E.C.No.363 of 2017. On such deposit, the 1st respondent / petitioner is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

6. Therefore, the appeal is partly allowed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Speaking order/non-speaking order

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The Commissioner for Employees Compensation,
Deputy Commissioner of Labour – II,
Chennai



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P.T.ASHA, J.,

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