



CMA.No.2248 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.2248 of 2014

M.s United India Insurance Co. Ltd.,
Post Box No.1122, D.B.Road,
R.S.Puram, Coimbatore.

... Appellant/3rd Respondent

Vs.

1.Mr.Rajesh Kumar

... 1st Respondent/Petitioner

2.Mr.K.Thirumalai

...2nd Respondents /1st Respondent

3.Mr.S.Muthukumar

... 3rd Respondent/2nd Respondent

PRAYER : Appeal filed under Section 173 of the Motor Vehicle Act against the Judgement and Decree in MCOP No.298 of 2007, dated 30.11.2010 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tiruppur.

For Petitioner : M/s.Harini for M/s. M.B.Gopalan

For Respondents : M/s. Kingston Jerold [R.1]

: Ex parte [R.2 & R.3]

**JUDGEMENT**

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The insurance company is aggrieved by the fact that for an injury that has not resulted in any loss of earning capacity or hindrance to the day to day activities of the claimant/1st respondent herein, the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tiruppur in MCOP No.298 of 2007 had adopted a multiplier method for arriving at the compensation under the head of loss of earning.

2. The appellant as per Ex.P.4 has sustained a fracture of his two bones of the right leg. The doctor who has not given the initial treatment and who was examined as P.W.2 had given the disability certificate, Ex.P.8 assessing the disability at 40%. In the said disability certificate the doctor has elaborated on the inconvenience that has been caused to the claimant/1st respondent herein on account of the accident which runs contra to the discharge summary, Ex.P.4. The Tribunal below has entirely relied upon this document and come to the conclusion that the injuries have caused a restriction to the movement of the claimant/1st respondent herein and has also resulted in a loss of earning capacity. This observation appears to be contrary to the discharge summary, Ex.P.4.



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3. Therefore, the learned counsel for the appellant/insurance company is correct in stating that the grant of compensation under the head of loss on account of the disability by adopting a multiplier method is erroneous. Therefore, the compensation under this head shall be granted by adopting a percentage basis. The amount per percentage shall be fixed at a sum of Rs.2,000/- taking into account the disability assessed by P.W.2. Therefore, the compensation under this head would be a sum of Rs. Rs.2,000/- x 40 i.e, Rs.80,000/-. In all other respects the award of the Tribunal below appears to be reasonable and does not call for any interference.

4. Therefore, the modified compensation would work out as follows;-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Compensation for 40% disability.	3,67,200/-	80,000/-	Reduced
2.	For Medical Expenses	79,619/-	79,619/-	Confirmed
3.	Cost of treatment required to remove the wire implanted.	30,000/-	30,000/-	Confirmed
4.	For transport to Hospital	3,000/-	3,000/-	Confirmed
5.	For nutrition	5,000/-	5,000/-	Confirmed



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S.No	Description	Amount awarded Tribunal (Rs)	by awarded this Court (Rs)	Award confirmed or enhanced or granted or reduced
6.	For pain and sufferings	10,000/-	10,000/-	Confirmed
	TOTAL	4,94,819/-	2,07,619/-	Reduced by Rs.2,87,200/-

5. Therefore, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal be and hereby is reduced to a sum of Rs.2,07,619/- from Rs.4,94,819/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. In all other respects the award of the Tribunal is confirmed. The Insurance Company/appellant herein is directed to deposit the said amount (Rs.2,07,619/-) to the credit of MCOP.No.298 of 2007 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tiruppur together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant/1st respondent herein is permitted to withdraw the award amount now determined by this Court along with interest and costs, after adjusting the amount if any already withdrawn. The Insurance Company is permitted to withdraw the excess amount lying in the



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deposit to the credit of MCOP.No.298 of 2007 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tiruppur, if the entire award amount has already been deposited by them. No costs.

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Index : Yes/No
Internet: Yes/No
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To

1. Motor Accidents Claims Tribunal,
Additional Subordinate Court, Tiruppur.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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P.T. ASHA, J,

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