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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1624 of 2015

The Branch Manager,
Oriental Insurance Company,
A.A.Complex, First Floor, Tiruppur.

... Appellant

Vs

1. Anandan @ Anandaraj

2. S.Ramasivam

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the judgment and decree dated 21.07.2014 in MCOP. No.14 of 2011 on the file of the Motor Accident claims Tribunal (Additional Sub court) at Tiruppur.

For Appellant : Mr.K.Vinod

For Respondents : Mr.M.P.Mohan Das R1

R2 – No ready notice

J U D G M E N T

This appeal has been filed by the appellant/claimant against the judgment and decree dated 21.07.2014 in MCOP. No.14 of 2011 on the file of the Motor Accident claims Tribunal (Additional Sub court) at Tiruppur.



04.12.2010, caused by an auto rickshaw, bearing Registration No.TN 33 AT 4772 a pedestrian, who is the first respondent, was injured. The first respondent alleged that the accident was caused by the auto, insured with the appellant, filed a claim petition, seeking compensation of Rs.20,00,000/- before the Tribunal under various heads.

3. Before the Tribunal, during trial, in order to prove the case, the claimant has examined three witnesses viz., PW1 to PW3 and marked Exs.P1 to P9, On the side of the Insurance Company, no witness was examined and no document was marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition and awarded a sum of 15,60,000/- as compensation to the claimants along with interest, aggrieved by the said award, the appellant/insurance company has filed the appeal before this Court for quashment of the award.

4. The learned counsel for the appellant/insurance company submitted that the doctor has assessed the disability at 85%, which is wrong. The Doctor, who assessed the disability to the first respondent, is not an expert. Without considering the same, the Tribunal has awarded a sum of Rs.12,96,000/- for the disability, which is highly excessive. The learned



the Tribunal in respect of other heads also an exorbitant, which warrants interference.

5. Per contra, the learned counsel for the first respondent/claimant submitted that admittedly the compensation awarded by the Tribunal is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

6. Heard the learned counsel for the appellant/insurance company and the learned counsel for the first respondent and also perused the materials available on record.

7. Admittedly, the first respondent is claimant, aged about 20 years, earning a sum of Rs.8,000/- per month and he sustained injuries all over his body due to the accident. On the earlier occasion, this Court already issued a direction to the first respondent to appear before the Medical Board for re-assess the disability. The Medical Board assessed the disability at 86% as permanent disability. Therefore, this Court feels that the Tribunal has rightly considered the matter and given the reasoning in perfect. Hence, the same does not require any interference by this Court. The amounts awarded



confirmed.

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8. In view of the above, this Court do not find any error in the award passed by the Tribunal. There is no merit in the appeal and therefore, this Court is not inclined to interfere with the same.

9. In the result, the Civil Miscellaneous Appeal is dismissed and a sum of Rs.15,66,000/- awarded by the Tribunal as compensation to the first respondent/claimant is hereby confirmed. The appellant insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest at the rate of 7.5% per annum, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent/claimant, is permitted to withdraw the compensation as awarded by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

19.12.2023

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Speaking Order/Non speaking order

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To

The Motor Accident claims Tribunal (Additional Sub court) at Tiruppur.



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M.DHANDAPANI.,J.

rli

To

C.M.A.No.1624 of 2015

19.12.2023