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C.M.A.No.1586 of 2022
and C.M.P.Nos.11746 of 2022 & 6829 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.1586 of 2022
and C.M.P.Nos.11746 of 2022 & 6829 of 2023

United India Insurance Company Ltd.,
No.134, Silingi Buildings,
4th Floor, Greams Road, Chennai -6.

... Appellant

Versus

1.Richard William @
Richard William Mathew
2.P.Manikandan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 15.07.2019 passed in M.C.O.P.No.3108 of 2014, on the file of the Motor Accident Claims Tribunal, Special Sub-Court No.2, Court of Small Causes, Chennai.

For Appellant : Mr.D.Bhaskaran
For R1 : Mr.P.Keerthi Varman

JUDGMENT

The appellant/Insurance Company had preferred the instant appeal seeking reduction of compensation to the 1st respondent herein.

2.The 1st respondent herein filed the claim petition stating that on 01.05.2014 at about 00.15 hrs, while he was riding his motorcycle on a public road, a lorry insured with the 2nd respondent came in a rash and



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negligent manner, dashed against his motorcycle; that as a result of which, the 1st respondent sustained grievous injuries; and that hence, the 1st respondent was entitled for compensation.

3.The 2nd respondent - owner of the offending vehicle remained *ex-parte* before the Tribunal.

4.The appellant filed a counter stating that the accident took place only due to the negligence of the 1st respondent; that in any case, the compensation claimed by the 1st respondent was excessive and hence prayed for dismissal of the claim petition.

5.Before the Tribunal, the 1st respondent examined himself as P.W.1 and marked Exs.P1 to P14 on his side. The appellant neither examined any witness nor marked any document. The disability certificate issued by the Medical Board was marked as Ex.C1.

6.The Tribunal after taking into consideration the oral and documentary evidence, held that the accident took place due to the



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negligence of the driver of the lorry insured with the appellant and directed the appellant to pay the compensation of Rs.14,21,700/- to the 1st respondent.

7.The learned counsel for the appellant submitted that the 1st respondent had admitted in his cross-examination that he was working as a Chef in a Five Star Hotel and he rejoined duty eight months after the accident; that the award of the Tribunal by adopting multiplier method is not warranted as the 1st respondent did not suffer any functional disability and hence, prayed for reduction of compensation.

8.Since the 2nd respondent remained *ex-parte* before the Tribunal, the learned counsel for the appellant sought permission of this Court to dispense with notice to the 2nd respondent and he had also made an endorsement to that effect. Hence, notice to the 2nd respondent is dispensed with.

9.The learned counsel for the 1st respondent submitted that the award of the Tribunal is just and reasonable. Considering the nature of



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injuries suffered by the 1st respondent, the Tribunal had rightly adopted multiplier method and awarded compensation and hence, no interference is called for and prayed for the dismissal of the appeal.

10.The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

11.On perusal of the records and on hearing the submissions of the learned counsel on either side, it is seen that the 1st respondent had suffered fracture in his right ankle and his right great toe was amputated. The Medical Board had assessed the disability of the 1st respondent as 40%. Considering the fact that the appellant is able to pursue his job after the accident, this Court is of the view that the functional disability assessed by the Tribunal at 40% is excessive. Even though the appellant is able to pursue his job, this Court is of the view that he would have certainly suffered functional disability to an extent. Considering the nature of injuries, amputation in right great toe, the assessment made by the Medical Board and the fact that the appellant is able to pursue his job, this Court is of the view that the functional disability of the 1st respondent



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can be assessed at 20% The notional income fixed by the Tribunal and the compensation awarded under other heads is just and reasonable and the same are confirmed. Hence, the compensation under the head disability is calculated as follows :-

$$\text{Rs.12,000} \times 12 \times 17 \times 20/100 = \text{Rs.4,89,600/-}$$

Thus, the compensation awarded by the Tribunal is modified as follows:-

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	9,79,200	4,89,600	Reduced
2.	Pain and Suffering	50,000	50,000	Confirmed
3.	Loss of Income	60,000	60,000	Confirmed
4.	Transportation	15,000	15,000	Confirmed
5.	Extra Nourishment	35,000	35,000	Confirmed
6.	Damages of clothes	1,000	1,000	Confirmed
7.	Medical Expenses	2,01,500	2,01,500	Confirmed
8.	Mental Agony	10,000	10,000	Confirmed
9.	Loss of Estate	30,000	30,000	Confirmed
10.	Attender charges	15,000	15,000	Confirmed
11.	Future Medical Expenses	25,000	25,000	Confirmed
	Total	14,21,700	9,32,100	Reduced by Rs.4,89,600/-



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12. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,21,700- is hereby reduced to Rs.9,32,100/-, together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The appellant is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of a receipt of copy of this Judgment. On such deposit, the 1st respondent is permitted to withdraw the entire award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellant/Insurance Company is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P.No.3108 of 2014, if the entire award amount has already been deposited by them. No costs. Consequently, connected miscellaneous petitions are closed.

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rst

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No



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To:

- 1.The Special Subordinate Judge No.2,
The Motor Vehicle Accident Tribunal,
Court of Small Causes, Chennai.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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