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C.M.A.No.2917 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HONOURABLE **MR. JUSTICE SUNDER MOHAN**

Civil Miscellaneous Appeal No.2917 of 2022
and C.M.P.No.22567 of 2022

Reliance General Insurance Co. Ltd.,
No.6, Reliance House, 6th Floor,
Haddows Road, Nungambakkam,
Chennai – 6.

... Appellant/2nd respondent

Versus

1. Abhay Kant Sharma,
2. N.Mohamed Ibrahim Basha,

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and Judgment dated 30.03.2022 made in M.C.O.P.No.2445 of 2014 on the file of the Motor Accidents Claims Tribunal (In the III Court of Small Causes) Chennai.

For Appellant	: Mr. P.Suresh Srinivasan
For Respondents	: Mr. G.Balaji Prasad for R1
	No Appearance for R2



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J U D G M E N T

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2. The first respondent filed a claim petition stating that on 15.01.2014 at about 11.45 hours, while he was crossing the Vandulur to Kelambakkam road as a pedestrian, the rider of two-wheeler bearing Reg.No.TN-20-BL-6583 belonging to the second respondent herein came in a rash and negligent manner and dashed against him, as a result of which, he sustained grievous injuries.

3. The second respondent remained exparte before the Tribunal.

4. The appellant filed a counter, resisting the claim petition on the ground that the compensation claimed by the first respondent is excessive; that the accident did not take place due to the negligence of the rider of the two wheeler and that hence, the claim petition is liable to be dismissed.



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5. The first respondent herein examined himself as P.W.1 and marked ten documents as Exs.P1 to P10. The appellant did not examine any witness or marked any document.

6. The Tribunal after taking into consideration the evidence on record awarded a total compensation of Rs.14,79,900/-

7. The learned counsel for the appellant, submitted that the Tribunal had failed to assess the functional disability of the first respondent herein and had erroneously accepted the disability certificate/Ex.P.9 issued by the Medical Board attached to the Government Hospital at Dumka District, State of Jharkhand. The learned counsel further submitted that the first respondent had neither proved his avocation nor his income; that in the absence of any proof to establish functional disability, the Tribunal erred in adopting Multiplier method and prayed for reduction of compensation.



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8. The learned counsel for the first respondent per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and prayed for dismissal of the appeal.

9. The second respondent remained ex-parte before the Tribunal. The learned counsel for the appellant made an endorsement to dispense with notice to the second respondent. Hence, notice to the second respondent is dispensed with.

10. Heard the learned counsel for the appellant as well as the learned counsel for the first respondent.

11. On perusal of the records, it is seen that the first respondent suffered “Post Fracture deformity of bb LLL & # ULL elbow”. It is seen that the first respondent had deposed before the Tribunal that he was working as a Carpenter. He had also mentioned the said fact in his complaint before the Police. The Tribunal after assessing the Disability Certificate and considering the avocation of the first respondent held that he had suffered 60% functional



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disability based on Ex.P9/Disability Certificate. The Medical Board assessed the disability as 60% permanent in relation to doing his work. The said finding of the Tribunal cannot be faulted in the facts and circumstances of the case. The Tribunal had fixed the monthly notional income as Rs.8,000/- for an accident which took place in the year 2014. Considering the avocation of the first respondent, this Court is of the view that the said finding also cannot be faulted. The award under the other heads is also reasonable and no interference is called for. Therefore, this Court is of the view that the award of the Tribunal is liable to be confirmed.

12.In the result, this Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal in MCOP.No.2445 of 2014. At the time of admission, the appellant/Insurance Company had deposited 50% of the award amount with accrued interest and costs to the credit of MCOP.No.2445 of 2014 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai. Hence, the Appellant/Insurance Company is directed to deposit the balance 50% of the award amount with



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accrued interest and costs fixed by the Tribunal within a period of six (6)

weeks from the date of receipt of a copy of this Judgment. On such deposit

the first respondent/claimant is permitted to withdraw the award amount,

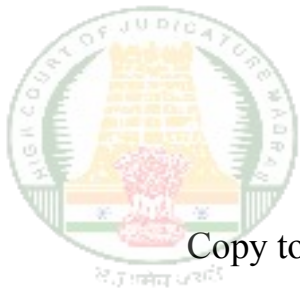
along with interest and costs, less the amount already withdrawn, if any.

No costs. Consequently, the connected miscellaneous petition is closed.

11.09.2023

Speaking Order / Non Speaking Order

Neutral Citation: Yes / No



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Copy to:-

- 1.The Motor Accidents Claims Tribunal
No.I, Additional District and Sessions Court
Vellore.
- 2.The Section Officer
VR Section
High Court of Madras
Chennai.



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SUNDER MOHAN, J.
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