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C.M.A.No.874 of 2023
and C.M.P.No.8129 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.874 of 2023
and C.M.P.No.8129 of 2023

The Regional Manager,
United India Insurance Company Ltd.,
A.R.Plaza, Plot No.35 to 37, 45 Feet, Road,
Balaji Nagar, Puducherry - 11.

... Appellant

Versus

1.Manikandan
2.S.Balusamy

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 04.03.2021 passed in M.C.O.P.No.1062 of 2018, on the file of the Motor Accident Claims Tribunal, Sub-Court, Cuddalore.

For Appellant	: Mr.D.Bhaskaran
For R1	: Ms.Subadra
	for Ms.M.Malar

JUDGMENT

The above appeal has been filed by the appellant/Insurance



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Company challenging the quantum of compensation awarded to the 1st respondent herein.

2.The 1st respondent-claimant had filed the claim petition stating that on 07.10.2017 at about 9.30 p.m., while he was riding his motorcycle on a public road, the vehicle viz., the car insured with the 2nd respondent herein came in a rash and negligent manner, hit against the vehicle of the 1st respondent; as a result of which, the 1st respondent sustained grievous injuries and hence the 1st respondent was entitled for compensation.

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

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



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5.Before the Tribunal, the 1st respondent examined himself as P.W.1 and marked Ex.P1 to P18. The appellant had 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 negligence of the driver of the car insured with the appellant herein and directed the appellant to pay a compensation of Rs.21,07,500/- to the 1st respondent.

7.The learned counsel for the appellant submitted that the Tribunal had merely accepted the disability certificate issued by the Medical Board without assessing the functional disability of the 1st respondent and had erroneously adopted multiplier method to award compensation. The learned counsel further submitted that the compensation under other heads is also excessive and prayed for reduction of compensation.



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8. Notice to the 2nd respondent was dispensed with vide order of this Court dated 13.04.2023.

9. The learned counsel for the 1st respondent-claimant submitted that the 1st respondent was working as a Taxi driver and was also doing the business of a travel agent; and that now he is unable to pursue his avocation; that therefore, the Tribunal ought to have fixed 100% functional disability considering the nature of injuries of the 1st respondent. The learned counsel further submitted that the award of the Tribunal in any case was not excessive and prayed for dismissal of the appeal. The 1st respondent was present before this Court and the learned counsel requested this Court to assess the nature of disability suffered by the 1st respondent.

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, it is seen that the 1st respondent had marked Ex.P16 to show that he owned three cars which was purchased in



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the name of his wife. He had also marked Ex.P15-driving license of the 1st respondent to prove the avocation of the 1st respondent. The learned counsel for the appellant physically examined the 1st respondent. He was therefore unable to point out any infirmity in the finding 35% functional disability assessed for the 1st respondent. This Court also saw the 1st respondent. Considering the nature of injuries, disability certificate issued by the Medical Board and on physical examination of the 1st respondent, this Court is of the view that the functional disability assessed by the Tribunal at 35% is justified and hence the same is confirmed. Further, considering the fact that the appellant owned three cars and established his avocation, the notional income fixed by the Tribunal is also justified. Therefore, this Court is of the view that the compensation awarded by the Tribunal is just and reasonable and no interference is called for. Therefore, this appeal is liable to be dismissed.

12.In the result, this Civil Miscellaneous Appeal is dismissed confirming the judgment and decree dated 04.03.2021 made in M.C.O.P.No.1062 of 2018 on the file of the Motor Accident Claims Tribunal, Sub-Court, Cuddalore. The appellant / Insurance Company is



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directed to deposit the award along with interest and cost, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent-claimant is permitted to withdraw the entire award amount along with interest and cost, less the amount already withdrawn, if any. No costs. Consequently, connected miscellaneous appeal is dismissed.

25.09.2023

rst

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

To:

1.The Sub-Judge,
The Motor Vehicle Accident Tribunal,
Cuddalore.

2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

rst

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