



C.M.A.(MD).No.1156 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.11.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1156 of 2012

Oriental Insurance Company Limited,
through its Manager,
having its office at 6-A,
North Cotton Street,
Thoothukudi.

... Appellant

Vs.

1.Mahalinga Gandhi
2.B.Ravi

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of the Motor Accident Claims Tribunal/Additional District Judge, Fast Track Court No.I, Thoothukudi made in M.C.O.P.No.288 of 2009 dated 18.04.2011.

For Appellant	: Mr.C.Jawahar Ravindran
For R1	: No Appearance
For R2	: Given Up

JUDGMENT

Challenging the compensation award passed by the learned Motor Accident Claims Tribunal/Additional District Judge, Fast Track Court



C.M.A.(MD).No.1156 of 2012

No.I, Thoothukudi, in M.C.O.P.No.288 of 2009 dated 18.04.2011, the appellant/second respondent has preferred this appeal.

2.The learned counsel appearing for the appellant/insurance company submitted that the case is of injured claimant and the learned Tribunal has fixed the percentage of permanent disability at 80%. However, towards loss of income, the learned Tribunal has awarded Rs. 1,76,000/-. The accident happened on 29.10.2008 and the loss of income ought to have been calculated for every percentage at a rate of Rs.2,000/- and hence, according to the learned counsel appearing for the appellant an amount of Rs.16,000/- is exorbitant under the Head of loss of income.

3.However, a perusal of the said order would reveal that the extra amount of Rs.16,000/- could be adjusted towards extra nourishment which was awarded at Rs.2,500/- and mental agony, which was awarded at Rs.10,000/-. Hence, the compensation towards mental agony is enhanced to Rs.18,000/- and for extra nourishment is enhanced to Rs. 10,500/-. Thus the total amount awarded will remain the same. Thereby, the award of the learned Tribunal is partly modified.



C.M.A.(MD).No.1156 of 2012

WEB COPY

Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/Enhanced/ Confirmed
(I)Partial Permanent Disability:	Rs.1,76,000/-	Rs.1,60,000/-	Reduced
(ii)Mental Agony:	Rs.10,000/-	Rs.18,000/-	Enhanced
(iii)Transportation Expenses:	Rs.1,000/-	Rs.1,000/-	Confirmed
(iv)Medical Expenses:	Rs.10,000/-	Rs.10,000/-	Confirmed
(v)Extra nourishment:	Rs.2,500/-	Rs.10,500/-	Enhanced
Total compensation awarded:	Rs.1,99,500/-	Rs.1,99,500/-	Confirmed

4.The first respondent/claimant is entitled to a sum of Rs. 1,99,500/- as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization. The appellant/insurance company is directed to deposit Rs.1,99,500/- with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the first



C.M.A.(MD).No.1156 of 2012

respondent/claimant is permitted to withdraw the award amount with proportionate interest after deducting any amount received by him earlier without filing any formal petition before the Tribunal. The first respondent/claimant is not entitled for interest for the default period, if there is any.

5.In view of the same, the Civil Miscellaneous Appeal stands partly allowed. There shall be no order as to costs.

29.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



WEB COPY



C.M.A.(MD).No.1156 of 2012

To

- 1.The Motor Accidents Claims Tribunal,
Additional District Judge, Fast Track Court No.I,
Thoothukudi
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.1156 of 2012

L.VICTORIA GOWRI, J.

Mrn

C.M.A.(MD)No.1156 of 2012

29.11.2023