



C.M.A(MD)No.272 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 29.08.2023

Pronounced On : 19.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.272 of 2019

The Branch Manager,
National Insurance Co., Limited,
Door No.MIG, 80 Feet Road,
Anna Nagar, Madurai.

: Appellant / 2nd Respondent

Vs.

1.Jaikalam

:1st Respondent/Petitioner

2.Balavenkatesh

3.P.Kani @ Mohan

4.United India Insurance Company Limited,
Door No.52, Branch Office 4 ,
South Masi Street, Madurai.

: Respondent 2 to 4/
Respondents 1, 3 and 4

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 21.01.2016 passed in M.C.O.P.No.212 of 2008 on the file of the Motor Accident Claims Tribunal, IV Additional Subordinate Judge, Madurai.



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For Appellant : Mr.P.Jeya Raman

For Respondents : Mr.S.Vinoth, for R1.

: Mr.S.Royce Immanuvel, for R4.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.212 of 2008, dated 21.01.2016 on the file of the Motor Accident Claims Tribunal/IV Additional Subordinate Judge, Madurai.

2. The appellant/Insurer, who was made liable to pay compensation of Rs.3,73,277/- with interest at 7.5% per annum to the first respondent/claimant for the disability suffered, consequent to an accident occurred on 24.02.2007, challenged the liability mulcted on it and also the quantum of compensation awarded at by the Tribunal.

3. Though the appellant/insurer has challenged the liability fastened on it, the learned counsel for the appellant would submit that they are only disputing the quantum of compensation awarded at by the Tribunal.



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4. The learned counsel for the appellant would submit that though P.W.2/Doctor has fixed partial permanent disability at 38% for the claimant, the Tribunal without any basis has fixed the disability at 66% and awarded Rs.1,32,000/- towards disability compensation.

5. But on perusal of the records, the claimant has produced two disability certificates, one issued by P.W.2/Doctor, who has fixed the disability at 38% and another disability certificate issued by the Dental Doctor, who has also fixed the disability at 38%. It is pertinent to note that the Dental Doctor, taking note of the physical disfigurement and difficulty in pronouncing words and mastication, has fixed the disability at 38%. Considering the disability certificates under Ex.P.12 and Ex.P.14, the learned trial Judge has fixed the disability at 66% and as such, the same cannot be found fault with.

6. Since the claimant has not suffered any permanent disability or functional disability, the Tribunal has rightly applied the percentage method and awarded Rs.2,000/- per percentage and granted Rs.1,32,000/- towards disability compensation.



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7. It is evident from the records that the claimant was admitted on 25.02.2007 in Vadamalayan Hospital and was discharged on 09.03.2007. Considering the nature of injuries, period of inpatient treatment and the consequent disability and other attending circumstances, granting of Rs.30,000/- towards pain and sufferings, Rs.5,000/- for transportation charges and Rs.5,000/- for extra nourishment and Rs.1,000/- for loss of dress and articles are very much reasonable and the same cannot said to be excessive.

8. The Tribunal, taking note of Ex.P.8/Medical Bills, has rightly awarded Rs.2,00,277/- towards medical expenses. Considering the above, the compensation awarded at Rs.3,73,277/- is very much reasonable and as such, there is nothing to interfere with the award.

9. Except the above, the appellant has not canvassed any other reason or ground to impugn the award. Hence, this Court concludes that the above appeal is devoid of merits and the same is liable to be dismissed. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs.



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10.In the result, the Civil Miscellaneous Appeal is dismissed and the award dated 21.01.2016 passed in M.C.O.P.No.212 of 2008 on the file of the Motor Accident Claims Tribunal/IV Additional Subordinate Judge, Madurai, is confirmed. Consequently, connected Miscellaneous Petition is also dismissed.

19.10.2023

NCC : Yes\No
Index : Yes\ No
Internet : Yes\ No
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To

- 1.The Motor Accident Claims Tribunal,
IV Additional Subordinate Judge, Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
C.M.A(MD)No.272 of 2019

19.10.2023