



CMA(MD)No.1006 of 2022

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BEFORE THE MAD URAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

CMA(MD).No. 1006 of 2022

Kanmani

Appellant

vs.

1.T. Aruna

2.T. Seethalakshmi

3.The United India Insurance Company Ltd.,
rep. by its Branch Manager,
2nd Floor, Assisi Complex,
PWD Road, Nagercoil,
Nagercoil Village, Agasteeswaram Taluk,
Kanyakumari District.

Respondents

PRAYER:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree made in MCOP.No.48 of 2019 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Nagercoil, dated 04.07.2022.

For Appellant : Mr. C. Sankar Prakash

For 3rd Respondent : Mr. C. Karthick



CMA(MD)No.1006 of 2022

JUDGMENT

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This Civil Miscellaneous Appeal is filed by appellant / claimant seeking for grant of entire compensation of Rs.2,20,841/- as assessed by the Tribunal. The accident, negligence, liability and quantum are not disputed.

2. The short point raised in this appeal is that the Tribunal having assessed the just and fair compensation at Rs.2,20,841/-, on a misconception restricted the claim to Rs.1,00,000/- and awarded a sum of Rs.1,00,000/- as compensation.

3. According to the appellant / claimant, the claim of Rs.1,00,000/- in the relief portion of the claim petition was a typographical error and the same would be evident from the S.Nos.21, 21(a) and 23 of claim petition.

4. I am in agreement with the counsel for the appellant and I am of the view that the error in the relief portion of the claim petition is a typographical error and as rightly pointed out by the learned counsel for



CMA(MD)No.1006 of 2022

the appellant instead of typing as Rs.10,00,000/-, a sum of Rs.1,00,000/- was typed leaving one “Zero”. In the light of the submission made by the learned counsel for the appellant and in the light of the averments made in the claim petition, I am of the view that the Tribunal having assessed the just and fair compensation at Rs.2,20,841/- ought not to have restricted it to Rs.1,00,000/- on an erroneous assumption. Even otherwise the Tribunal having found that the claimant / appellant was entitled to just compensation of Rs.2,20,841/- ought not to have restricted the compensation on clerical mistake committed by the claimant.

5. In the light of the above, the Judgment and Decree dated 04.07.2022 made in MCOP.No.48 of 2019 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Nagercoil is set aside. The appellant / claimant is entitled to a sum of Rs.2,20,841/- as compensation along with interest at 7.5% per annum for the injuries suffered by him in the accident, which took place on 26.09.2017. The 3rd respondent, Insurance Company is directed to deposit the said award amount of Rs.2,20,841/- @ 7.5% interest per annum, less the amount already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to



CMA(MD)No.1006 of 2022

withdraw the same by filing appropriate application before the Tribunal

The appeal is allowed. No costs.

28.02.2023

Index : Yes/No

Internet : Yes/No

trp

To

The Motor Accidents Claims Tribunal, II Additional Subordinate Judge,

Nagercoil



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CMA(MD)No.1006 of 2022

N. MALA, J.,

trp

CMA(MD).No. 1006 of 2022

28.02.2023