



C.M.A. (MD) No. 594 of 2017

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DATED: 18.08.2023

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

C.M.A.(MD)No.594 of 2017

and

C.M.P.(MD)No.6227 of 2017

The Manager
Universal Sampo General Insurance Co. Ltd.,
having its office at No.102
No.6, Ambikapathu Tower
No.40 Feet Road, Keelamal
T.T.Nagar, Karaikudi.

... Appellant/
Respondent No.2

Vs.

1. Adaikalam @ Ilayaraja

... Respondent/
Petitioner

2. Selvarasu

... Respondent/
Respondent No.1

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decretal and judgment order dated 30.01.2017 made in M.C.O.P.No.360 of 2015 on the file of Motor Accident Claims Tribunal (Special District Court/MCOP Cases), Thanjavur and allow this appeal.



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For Appellant : Mr.S.Srinivasa Raghavan
For R1 : Mr.G.Karnan
For R2 : No appearance

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.360 of 2015 dated 30.01.2017 on the file of the Motor Accident Claims Tribunal/Special District Court, Thanjavur.

2. The appellant/insurer, who was made liable to pay compensation of Rs.7,68,930/- (Rupees Seven Lakhs Sixty Eight Thousand Nine Hundred and Thirty only) with interest at 7.5% per annum and costs to the first respondent/claimant for the disability suffered by him, consequent to an accident occurred on 27.03.2015, challenged the quantum of compensation awarded at, by the Tribunal.

3. It is not in dispute that the first respondent/claimant has also filed an appeal in C.M.A.(MD)No.1049 of 2017 seeking enhancement and



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subsequently, they have not pressed the appeal and on that basis, the appeal came to be dismissed as not pressed on 06.01.2022.

4. It is evident from the records that the first respondent/claimant has suffered the following four injuries (1) right fronto temporal compound depressed fracture with EDH and dural lacerations, (2) multiple frontal and temporal contusion, (3) diffuse front temporal SAH/right patella fracture and (4) soft tissue injury face fracture maxilla, zygome.

5. It is further seen that the first respondent/claimant was admitted in Kauvery Hospital, Trichy on 28.03.2015 and was discharged on 19.04.2015.

6. Though the first respondent/claimant has suffered disability at 86%, the Tribunal, by reducing to 70%, has applied percentage method and granted compensation of Rs.2,10,000/- (Rupees Two Lakhs and Ten Thousand only) for permanent disability. As per the medical bills produced under Ex.P.9, the Tribunal has granted Rs.4,20,367/- (Rupees Four Lakhs Twenty Thousand Three Hundred and Sixty Seven only) towards medical expenses. The Tribunal has also granted Rs.50,000/- (Rupees Fifty



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Thousand only) for pain and suffering, Rs.20,000/- (Rupees Twenty Thousand only) for transportation, Rs.20,000/- (Rupees Twenty Thousand only) for extra nourishment, Rs.20,000/- (Rupees Twenty Thousand only) for loss of amenities, Rs.50,000/- (Rupees Fifty Thousand only) for loss of expectation of life and Rs.39,000/- (Rupees Thirty Nine Thousand only) for loss of income for six months, totalling Rs.8,54,367/- (Rupees Eight Lakhs Fifty Four Thousand Three Hundred and Sixty Seven only). The Tribunal, taking note of the negligence on the part of the first respondent/claimant, has reduced the compensation at 10% and arrived at Rs.7,68,930/- (Rupees Seven Lakhs Sixty Eight Thousand Nine Hundred and Thirty only).

7. Considering the nature of injuries sustained and the consequent disability and also taking note of the period of treatment and other attending circumstances, the amounts awarded under the various heads referred above are very much reasonable and the same cannot said to be excessive.

8. Except the above, the appellant/insurer has not canvassed any other reason or ground to impugn the award. Hence, this Court



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concludes that the appeal is devoid of merits and the same is liable to be dismissed. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 30.01.2017 passed in M.C.O.P.No.360 of 2015 on the file of Motor Accident Claims Tribunal/Special District Court, Thanjavur, is confirmed. The appellant/insurer is directed to deposit the entire award amount with accrued interest and costs, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the first respondent/claimant is permitted to withdraw the said amount, with accrued interest and costs. Parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

18.08.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
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