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C.M.A.No.600 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.600 of 2021
and
C.M.P.No.3664 of 2021

The District Collector, Collectorate,
Krishnagiri District.

... Appellant

Vs.

Kumaravel

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 13.10.2020 made in M.C.O.P. No.106 of 2017 on the file of the Motor Accident Claims Tribunal, Uthangarai.

For Appellant : Mr.C.Sathish Kumar
Spl. Govt. Pleader (CS)

For Respondent : Mr.S.P.Yuvaraj

JUDGMENT

This appeal has been filed, challenging the award passed by the Tribunal. The appellant has challenged the award on the following grounds:

a) The Tribunal has erroneously adopted the multiplier method for



assessing the disability compensation payable to the respondent / claimant;

b) The driver of the vehicle owned by the appellant is not responsible for the cause of the accident.

2. Admittedly, the F.I.R. has been registered only against the driver of the vehicle owned by the appellant. The driver of the vehicle owned by the appellant has also admitted guilt and has paid the fine. The same was also recorded by the Tribunal in the impugned award. No contra evidence has also been produced by the appellant to disprove the fact that the driver of the vehicle owned by the appellant was responsible for the cause of the accident. Based on the preponderance of probability, the Tribunal, under the impugned award and based on the available evidence on record, has rightly come to the conclusion that the driver of the vehicle, owned by the appellant, due to his rash and negligent driving, is responsible for the cause of the accident. This Court does not find any infirmity in the said finding.

3. In so far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has rightly applied the multiplier method for assessing the disability compensation of the respondent / claimant. The



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respondent / claimant has sustained the following injuries as a result of the accident. The same has also been extracted in the impugned award of the Tribunal:

" Grievous injuries in his left hip region and has suffered a fracture in the neck of femur left hip".

4. The claimant was aged 38 years at the time of the accident. He was hospitalized for 17 days as seen from the discharge summary issued by the Hospital which has been marked as Ex.P4. The Medical Board at Government Head Quarters Hospital, Krishnagiri has assessed the partial permanent disability of the respondent / claimant at 40%.

5. The Medical Board has also observed in its report that the respondent / claimant is unable to sit, stand, squat and bend and unable to walk for long distance. The Tribunal after giving due consideration to the report of the Medical Board (Ex.C1) has assessed the functional disability of the respondent / claimant at 30%. This Court does not find any infirmity in the said assessment made by the Tribunal, considering the nature of injuries sustained by the respondent / claimant and the difficulties faced by him as a result of the said injuries. The accident happened in the year 2017.



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The respondent / claimant was a Mason. The Tribunal assessed the notional monthly income of the respondent / claimant at Rs.7,000/-. After giving due consideration to the year of the accident, this Court is of the considered view that the assessment of the notional monthly income of the respondent / claimant by the Tribunal at Rs.7,000/- is a just assessment. The Tribunal has adopted 14 multiplier under the impugned award though for a person aged 38 years, the correct multiplier to be adopted is 15. However, no appeal has been filed by the respondent / claimant in respect of the wrong adoption of the multiplier. In view of the same, this Court does not find that the compensation awarded by the Tribunal towards permanent disability at Rs.4,41,000/- to be excessive as claimed by the appellant in this appeal. Only based on the evidence available on record, viz.,

- a) Medical Bills of the petitioner (Ex.P8);
- b) Discharge Summary of the respondent / claimant (Ex.P4);
- c) Wound certificate of the respondent / claimant (Ex.P3); and
- d) Permanent disability certificate for the respondent / claimant of the Medical Board (Ex.C1)

the Tribunal has awarded a total compensation of Rs.5,86,516/- which in the considered view of this Court cannot be excessive as claimed by the



appellant as the said compensation is a just compensation.

6. In the result, there is no merit in this appeal. Accordingly, this appeal is dismissed. The appellant is directed to deposit the entire award amount, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.106 of 2017** on the file of the **Motor Accident Claims Tribunal, Uthangarai**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

7. The respondent / claimant is permitted to withdraw the said amount, once it is deposited by the appellant, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.106 of 2017** to the bank account of the respondent / claimant directly through RTGS, after deducting the amount already transferred to the claimant if any, within a period of **one week** thereafter. No costs. Consequently, connected miscellaneous petition is closed.

15.04.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No



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ABDUL QUDDHOSE. J.,

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To

1. The Motor Accident Claims Tribunal, Uthangarai.
2. The Section officer, Record Section, High Court of Madras.

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