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C.M.A.No.358 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.358 of 2013

The National Insurance Co. Ltd.,
No.165, Nethaji Road,
Manjakuppam,
Cuddalore.

... Appellant

Vs.

1.A.Devarasan @ Devaraj
2.S.B.Kannan

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.06.2012 made in M.C.O.P. No.1339 of 2008 on the file of the Motor Accidents Claims Tribunal, I Additional Subordinate Court, Cuddalore.

For Appellant : Mr.S.Vadivel

For Respondents : Ms.Ramya V.Rao
for R1

R2 - Ex-parte

JUDGMENT

This appeal has been filed by the appellant Insurance Company, questioning the quantum of compensation awarded by the Tribunal to the



first respondent / claimant.

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2. The Tribunal under the impugned award has directed the appellant Insurance Company to pay a total compensation of Rs.1,14,000/- to the first respondent / claimant for the injuries sustained by him as a result of an accident caused by the vehicle insured with the appellant Insurance Company as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Disability (Rs.2,000/- x 30)	60,000
Loss of Income for 2 months (Rs.4,500/- x 2)	9,000
Pain and Sufferings	25,000
Medical Expenses	15,000
Extra Nourishment	3,000
Transport	2,000
Total	1,14,000

3. The accident happened in the year 2008. The first respondent / claimant has sustained two fractures in his ribs. The Doctor had assessed the disability of the first respondent / claimant at 30%. The Tribunal has awarded a disability compensation of Rs.60,000/- calculated at Rs.2,000/- per percentage of disability for the 30% disability suffered by the first respondent / claimant. Though the appellant Insurance Company has



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disputed the assessment of disability of the Doctor at 30%, there is no contra evidence produced by them before the Tribunal to disprove the same. Only based on the disability certificate issued by the Doctor at 30%, the Tribunal has assessed the first respondent's / claimant's disability at 30% and has awarded a disability compensation of Rs.60,000/- calculated at Rs.2,000/- per percentage of disability. This Court does not find any infirmity in the disability compensation awarded by the Tribunal at Rs.60,000/- to the first respondent / claimant.

4. The Tribunal has awarded loss of income for a period of two months to the first respondent / claimant at Rs.4,500/- per month. This Court, after giving due consideration to the nature of injuries sustained by the first respondent / claimant and in view of the fact that two ribs were fractured, does not find any infirmity in the compensation awarded by the Tribunal towards loss of income at Rs.9,000/- to the first respondent / claimant. Therefore, the same is confirmed by this Court.

5. Similarly, the compensation awarded by the Tribunal to the first



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respondent / claimant towards pain and suffering, medical expenses and extra nourishment and transportation at Rs.25,000/-, Rs.15,000/-, Rs.3,000/- and Rs.2,000/- respectively is a just compensation, which does not call for any interference from this Court. Therefore, the total compensation awarded by the Tribunal to the first respondent / claimant at Rs.1,14,000/-, does not call for any interference from this Court.

6. There is no merit in this appeal. Accordingly, this appeal is dismissed. No Costs. It is represented by the learned counsel for the first respondent / claimant that the amount which was earlier lying to the credit of M.C.O.P. No.1339 of 2008 before the Tribunal has already been withdrawn by the first respondent / claimant.

7. The appellant Insurance Company is directed to deposit the 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.1339 of 2008** on the file of the **Motor Accidents Claims Tribunal, I Additional Subordinate Court, Cuddalore**, within a period of **four weeks** from the



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date of receipt of a copy of this judgment.

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8. The first respondent / claimant is permitted to withdraw the said amount, once it is deposited by the appellant Insurance Company, 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.1339 of 2008** to the bank account of the first respondent / claimant directly through NEFT / RTGS, within a period of **one week** thereafter.

18.07.2024

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

1. The Motor Accidents Claims Tribunal, I Additional Subordinate Court, Cuddalore.

2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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