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C.M.A.No.1467 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1467 of 2020 and C.M.P. No.10764 of 2020

Shriram General Insurance Co. Ltd.,
No.E-8, EPIP, RICO Industrial Area,
Sitapura, Jaipur,
Rajasthan - 302 022.

.. Appellant

vs.

1.M.Balamurali

2.D.Alaguraja

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 14.03.2019 made in M.C.O.P. No.57 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.J.Pradeep for R1

JUDGMENT

This appeal has been filed by the appellant/Insurance Company, challenging the award primarily on the ground that the Tribunal has



C.M.A.No.1467 of 2020

erroneously adopted the multiplier method for assessing the loss of earning capacity of the first respondent/claimant.

2.The first respondent/claimant had sustained injuries as a result of an accident caused by a vehicle, insured with the appellant/Insurance Company.

3.The nature of injuries sustained by the first respondent/claimant has not been disputed by the appellant/Insurance Company. According to them, the Tribunal ought not to have adopted the multiplier method for assessing the loss of earning capacity of the first respondent/claimant as the nature of injuries sustained by him does not entitle the first respondent/claimant to be paid compensation based on the multiplier method.

4.Admittedly, before the Tribunal, the appellant/Insurance Company did not file its counter and was set exparte. No oral and documentary evidence was let in by the appellant/Insurance Company.



C.M.A.No.1467 of 2020

5.In view of the same, the first respondent/claimant did not have an opportunity to cross examine the appellant's/Insurance Company's witness and also did not have an opportunity to question the veracity of any documentary evidence that would have been produced by the appellant/Insurance Company in case they had contested the claim, on merits through oral and documentary evidence.

6.Learned counsel for the first respondent/claimant disputes the contention of the appellant/Insurance Company that the Tribunal had erroneously adopted the multiplier method.

7.After giving due consideration to the fact that the appellant/Insurance Company was set exparte by the Tribunal and in view of the aforementioned reasons, this Court is of the considered view that in the interest of both the parties, this Court deems it fit to remand the matter back to the very same Tribunal for fresh consideration, on merits and in accordance with law, after affording an opportunity to the appellant/Insurance Company to file its counter and also affording an opportunity to both the parties to let in additional oral and documentary evidence to



C.M.A.No.1467 of 2020

substantiate their respective contentions in order to adjudicate the claim,
on merits and in accordance with law.

8.Learned counsel for the first respondent/claimant has not raised any serious objection for remanding the matter back to the Tribunal for fresh consideration.

9.For the foregoing reasons, the impugned award of the Tribunal is hereby set aside and the matter is remanded back to the very same Tribunal, i.e. Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri for fresh consideration, on merits and in accordance with law, after affording opportunity to the appellant/Insurance Company to file its counter and also affording opportunity to both the parties to let in additional oral and documentary evidence in support of their respective contentions. The Tribunal is directed to pass final orders within a period of six months from the date of receipt of a copy of this judgment. Accordingly, this appeal is disposed of. No costs. Consequently, connected petition is closed.

10.06.2024

vga



C.M.A.No.1467 of 2020

To
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- 1.The Motor Accidents Claims Tribunal,
Special Sub Court, Krishnagiri.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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C.M.A.No.1467 of 2020

ABDUL QUDDHOSE, J.

vga

C.M.A. No.1467 of 2020 and C.M.P. No.10764 of 2020

10.06.2024