



C.M.A(MD)No.1161 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1161 of 2021

and

C.M.P.(MD)No.11148 of 2021

Sri Ram General Insurance Company Limited,
through its Branch Manager,
2nd Floor, Number 25,
B2/1S, SRC Complex,
North Block, S.N.High Road,
Tirunelveli-627 001.

... Appellant

Vs.

1.Muthu Kumar
2.Kombiah

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award and decree, dated 23.01.2018, passed in M.C.O.P.No.476 of 2013, on the file of Motor Accident Claims Tribunal / I Additional District and Sessions Judge, Tirunelveli.

For Appellant	: Mr.V.Sakthivel
For R1	: Mr.R.J.Karthick
For R2	: No appearance



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JUDGEMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company.

2. It is a case of injury. The injured was working as Welding Contractor and Manpower Supplier. The contention of the Insurance Company is that the functional disability is fixed as 50% which is on a higher side. Moreover, when the Medical Board has certified the functional disability as only 10%. But a private Doctor has deposed before the Tribunal that the functional disability is 56.6%. The Tribunal has taken the opinion of the private Doctor in toto and has fixed the disability as 50% and has applied multiplier method. For any injury multiplier method is not applicable, hence the Insurance Company is before this Court.

3. On perusal of the order passed by the Tribunal, it is seen that multiplier method is applied. In case of injury, multiplier method is not applicable. The salary of Rs.4000/- is taken as loss of monthly income and the regular method for injury cases is applied, the amount comes to Rs.2,26,400/-. By taking the disability, this Court is fixing loss of earning capacity as Rs.3,20,000/- which will be appropriate and just compensation. The rest of the compensation awarded in



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various heads are confirmed. The Tribunal award is modified as under:

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Loss of earning capacity :	Rs.3,20,000/-
Loss of Future comfort :	Rs.1,00,000/-
Loss of Income :	Rs.19,500/-
Pain and suffering :	Rs.1,00,000/-
Attendant charges :	Rs.5,000/-
Medical Bill :	Rs.63,580/-
Total :	Rs.6,08,080/-

4. The appellant is directed to deposit Rs.6,08,080/- towards compensation with interest @ 7.5% per annum and costs, less the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the amount with accrued interests and costs, less the amount already withdrawn by him, if any, without filing any application before the Tribunal.



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6. With the above said modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

- 1.Motor Accident Claims Tribunal /
I Additional District and Sessions Judge,
Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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