



C.M.A(MD)No.729 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.729 of 2023

The Branch Manager,
M/s.United India Insurance Company Limited,
No.391, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

... Appellant

Vs.

1.Vasanthi
2.Senthilkumar

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 12.01.2023, made in M.C.O.P.No.15 of 2019, on the file of the Principal Sub Judge, Srivilliputhur.

For Appellant : Mr.S.Royce Immanuel

For R1 : Mr.M.Thirunavukkarasu

For R2 : No appearance



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JUDGEMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2.It is a case of injury. The contention of the Insurance Company is that the husband of the injured has preferred the FIR and he has investigated without the permission of the higher officials and the entire investigation is in favour of the injured person which cannot be accepted and the same was not denied by the claimant. However, the fact remains that the injured had suffered 63% permanent disability and she underwent 8 operations. Therefore, this Court is not inclined to interfere with the compensation that is awarded by the Tribunal. However, it is not the mistake of the offending vehicle as well. Therefore, the appellant shall pay the amount and recover the same from the 2nd respondent herein who is the owner of the two-wheeler.

3. As far as the loss of amenities is concerned, this Court is of the considered opinion that the amount awarded by the Tribunal is on a higher side. Therefore, the same is reduced to Rs.50,000/- from Rs.1,00,000/-. The rest of the award granted under the other heads are confirmed. The modified compensation



is as under:

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Sl.No	Head of compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Permanent Disability (63% * Rs.5000/-)	Rs.3,15,000/- (confirmed)	Rs.3,15,000/-
2.	Medical Expenses	Rs.4,68,105/- (confirmed)	Rs.4,68,105/-
3.	Attender Charges	Rs.35,000/- (confirmed)	Rs.35,000/-
4.	Pain and Suffering	Rs.2,00,000/- (confirmed)	Rs.2,00,000/-
5.	Loss of Amenities	Rs.50,000/- (reduced)	Rs.1,00,000/-
6.	Transportation	Rs.10,000/- (confirmed)	Rs.10,000/-
7.	Nutrition	Rs.5,000/-(confirmed)	Rs.5,000/-
8.	Damage to clothing and property	Rs.2,000/-(confirmed)	Rs.2,000/-
	Total	Rs.10,85,105/- (reduced)	Rs.11,35,105/-

4.The appellant is directed to deposit Rs.10,85,105/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw their shares with proportionate accrued interests and costs, less the amount already withdrawn by her, if any, by filing appropriate application before the Tribunal. The appellant Insurance Company is entitled to recover the same from the owner of the two-wheeler / 2nd respondent herein, by way of filing Execution Petition, without actually filing a suit as held by Hon'ble



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Apex Court in the judgment reported in **2004 (2) CTC 464 (Oriental Insurance Co., Ltd., vs. Shri Nanjappan and others)**.

5. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.02.2024

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

Tmg

To

- 1.Principal Sub Judge, Srivilliputhur.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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