



C.M.A(MD)No.945 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.945 of 2021

and

C.M.P.(MD)No.8918 of 2021

The Divisional Manager,
The Cholamandalam MS General
Insurance Company Limited,
No.7, Ground Floor, Ramesh Nagar,
Opposite to New Housing Unit Bus Stop,
Pudukkottai Road, Thanjavur.

... Appellant

Vs.

1.T.Sathish Kumar
2.P.Sridevi

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 26.07.2021, made in M.C.O.P.No.124 of 2020, on the file of the by the Motor Accident Claims Tribunal, (Special Subordinate Judge's Court), Thanjavur.

For Appellant : Mrs.K.R.Shivashankari
For R1 : N.Tamilmani
For R2 : No appearance



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JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal against the award passed by the Tribunal.

2. It is a case of injury with fracture on the left leg and left hand. The contention of the Insurance Company is that the Doctor has certified only the fracture on the left leg and the disability at 40%. The Doctor has not given any certificate of permanent disability for the whole body. The Tribunal has taken the disability at 40% which is erroneous. But the Learned Counsel appearing for the claimants / respondents submitted that the Tribunal has not taken the other injuries while granting the compensation. The Learned Counsel appearing for the appellant submitted that the Doctor has also not certified any injuries that occurred in the left hand.

3. After hearing the submissions of both sides and perusing the certificate issued by the Doctor, this Court is of the considered opinion that that the Doctor ought to have granted proper disability certificate. Therefore, this Court is inclined to reduce the percentage of disability to 15%.



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4. It is seen that the Tribunal has fixed the notional income as Rs.8,000/-.

The injured was working as an Agriculture Coolie. The minimum notional fixation for any person is Rs.8,000/-. Since in the present case the injured was service as Agriculture Coolie, this Court is increasing the notional income to Rs. 11,000/-. For contributory negligence, 25% of the amount ought to be deducted. Taking all these factors into consideration, this Court is inclined to reduce the award amount to Rs.6,80,000/- from Rs.7,80,240/- as full and final settlement. Therefore, the award is modified as stated supra.

5.The appellant is directed to deposit Rs.6,80,000/- 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.



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

30.01.2024

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

Tmg

To

1.Motor Accident Claims Tribunal/
Special Subordinate Judge's Court,
Thanjavur.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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