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CMA.No.1795 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA.No.1795 of 2019

Ameer Basha

...Appellant

Vs.

1.C.Muthu

2.The Branch Manager
The Oriental Insurance Company Ltd.,
Branch Office
No.3-L, Siddhaveerappa Chetty Street
Dharmapuri 636 701.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1998, against the award and decree dated 09.02.2010 made in MCOP.No.1282 of 2007 on the file of the Motor Vehicle Claims Additional District Judge, Krishnagiri.

For appellant : Mr.M.Sriram

For Respondents : R1-No appearance (served)
Mr.M.J.Vijayaraghavan for R2



JUDGMENT

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This Civil Miscellaneous Appeal has been filed against the award and decree dated 09.02.2010 made in MCOP.No.1282 of 2007 on the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri.

2. The learned counsel for the appellant would submit that the Tribunal inspite of producing Disability Certificate as Ex.P8 certifying the claimant had suffered 35% of disability, unilaterally without any evidence whatsoever, had taken the disability as 30% only. He would further submit that even under the other heads, the Tribunal had only granted meagre amounts and also had not proportionately compensated the appellant for the loss of income that the appellant had suffered. Hence, he seeks indulgence of this Court.

3. Counter Affidavit has been filed by the second responded/Insurance Company before the Tribunal.

4. The learned counsel for the second responded/Insurance Company would submit that the Tribunal had not accepted the certificate by giving cogent reasoning as that if the appellant had taken medical treatment as per the advanced treatment procedures, there could have been a chance to reduce the



disability. He would further submit that the appellant had not substantiated the correctness of the medical treatment taken by him. That apart, Ex.P8 which had been marked through PW2 is also not issued in the manner known to law. He would further submit that the compensation has been adequately awarded under all other heads and the appellant had not proved that he had suffered loss of income for a longer period for grant of compensation under the aforesaid head. Hence, he seeks dismissal of the Appeal.

5. I have considered the submissions made by either side and perused the materials available on record.

6. The appellant had been granted compensation under various heads, which includes the compensation for permanent disability and loss of income during treatment period apart from other heads.

7. A perusal of the award impugned would indicate that except the head of 'permanent disability', all other heads have been correctly evaluated based upon the evidence that has been placed before it and hence, there is no necessity to interfere with the compensation awarded under the various heads except under the head 'permanent disability' which is discussed hereunder:



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8. The petitioner had produced Ex.P8, certificate of disability indicating that he had suffered 35% disability and also examined the Doctor as PW2. The respondent had not let in any evidence, muchless marked any document to contradict Ex.P8. The Court below had proceeded, on presumption, that if the appellant had undergone advanced treatment, there could have been a chance for lesser disability. This Court is of the view that reducing the percentage of disability on a presumption of advanced medical treatment, without any material before it, by way of oral or documentary evidence is wholly irregular and improper.

9. On the strength of Ex.P8 and evidence of PW2, the petitioner is entitled for compensation for permanent disability at 35%. For the said reason, the compensation awarded under the aforesaid head alone is interfered with and in addition to the compensation that has been awarded by the Tribunal under the head of 'permanent disability' a further sum of Rs.5,000/- is ordered to be paid by the second respondent/Insurance Company to the appellant together with interest as awarded by the Tribunal in the impugned award.

10. In the result, the appeal is partly allowed and the appellant is entitled to additional compensation of Rs.5,000/- over and above the award amount



together with interest at the rate of 6% per annum from the date of petition till the date of payment. The second respondent/Insurance Company is directed to pay the award amount within a period of two (2) months from the date of receipt of a copy of this order. No costs.

27-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

dna

To

The Motor Accident Claims Tribunal, Additional District Court,
Krishnagiri.



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K.KUMARESH BABU, J.

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