

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.2038 of 2011

and

MP.No.1 of 2011

The United India Insurance Company Ltd.,
Third Party Motor Claims Cell,
Divisional Office. ... Appellant/2nd Respondent

Vs.

1. S.Jaganathan ... 1st Respondent/Claimant
2. P.Rajkumar ... 2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 05.08.2009 made in OP.No.421 of 2007 on the file of the Motor Accidents Claims Tribunal, Ponneri.

For Appellant : Mr.D.Bhaskaran

For Respondents : No appearance

JUDGMENT

The appeal has been preferred by the Insurance Company, challenging the quantum of compensation fixed by the Tribunal. No argument has been advanced regarding the liability to pay the compensation.

2. The accident occurred on 29.05.2007. The claimant examined himself as PW-1. He marked Ex.P1 to P11. The owner of the offending vehicle remained ex-parte before the Tribunal. The appellant resisted the claim. The claimant alleged that on account of the accident he suffered grievous injuries. He claimed a total compensation of Rs.1,70,000/-. The Tribunal has awarded a total compensation of Rs.64,300/- payable with interest at 7.5% per annum under the various heads as detailed below:

Loss of income	-	Rs. 7,500
Transportation	-	Rs. 1,000
Extra nourishment	-	Rs. 1,800
Damage to cloths	-	Rs. 1,000
Pain and suffering	-	Rs. 8,000
Permanent disability-		Rs.45,000
total	-	Rs.64,300

3. The learned counsel for the appellant would submit that the claimant suffered only simple injuries and the question of disability does not arise in this case. According to him, the Tribunal without applying its mind accepted the disability certificate issued by PW-2 in a routine manner and fixed Rs.45,000/- under the head of disability. He has not challenged the quantum fixed under the other heads.

4. The Tribunal, based on the evidence of the claimant and doctor and placing reliance on the disability certificate assessed the disability at 30%. It appears that though the doctor assessed the disability 35%, the Tribunal has not readily accepted the version of the doctor. There is no contra evidence to reject the evidence adduced on the side of the claimant. Having regard to the date of accident and the age of the claimant, the Tribunal awarded at the rate of Rs.1,500/- per percentage of disability. It is significant to note that the appellant has not adduced any evidence in support of his case. In the absence of any contra evidence it cannot be said, the award of Rs.45,000/- under this head is excessive.

5. In the circumstances of this case, I am of the view that the Tribunal was justified in fixing the compensation at Rs.64,300/- and that it does not warrant any interference in the appeal. Accordingly, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmi
To:

1. The Sub Ordinate Judge,
Motor Accidents Claims Tribunal, Ponneri.
2. The Section Officer, V.R.Section, High Court, Madras.

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.9991

C.M.A.No.2038 of 2011

PVS(CO)
GN(11/09/2017)