IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 15.06.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1637 of 2017
and
C.M.P. No.8680 of 2017

1.M.Stephenraj

2.National Insurance company,
Represented by its Branch Manager,
Kumbakonam Town & D.M.Taluk. .. Appellant 1 & 2 /Respondents

versus

Chellapandiyan .. Respondent/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.03.2008 and made in M.C.O.P.No.690 of 2006 on the file of Motor Accidents Claims Tribunal, Subordinate Court, Mannarkudi and praying to set aside the same.

For appellants : Mr.N.Vijayaraghavan

J U D G M E N T

The claimant, Chellapandiyan, aged 34 years, practicing as an Advocate, and earning a sum of Rs.8,000/- per month, met with an accident on 04.05.2005 in which he suffered grievous injuries. Therefore, he filed a claim petition claiming compensation in a sum of Rs.3,00,000/-.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.10,000/- holding that the injury sustained by the claimant is simple in nature.

3. It is a case of claimant Chellapandiyan that he suffered an accident involving the vehicle belonging to the 1st appellant which is insured with the 2nd appellant and, therefore, both the appellants are jointly and severally liable to pay compensation in a sum of Rs.3,00,000/-. The owner of the vehicle, viz., the 1st appellant, disputed the involvement of the vehicle in the accident.

4. The appeal has been filed by the 2nd appellant, the insurer of the vehicle questioning the the liability as well as the excessiveness of the compensation.

5. A perusal of the order passed by the Tribunal reveals that the Tribunal has taken into consideration the oral evidence of the claimant as well as the 1st respondent/1st appellant herein and has held that the 1st appellant has not disputed the involvement of the vehicle in the accident. The Tribunal has further went on to hold that the vehicle involved in the accident was covered under the policy issued by the 2nd appellant, viz., the insurer of the vehicle. On the basis of the oral and documentary evidence and taking into consideration the fact that the claimant has suffered only simple injuries, the Tribunal quantified the compensation in a sum of Rs.10,000/- to be paid by the insurer of the vehicle, viz., the 2nd appellant herein.

6. Though it is the contention of the learned counsel for the 2nd appellant that the 2nd appellant is not liable to pay the compensation as the vehicle was not at all involved in the accident, however the said contention cannot be accepted for the reason that the Tribunal has given a finding that though the owner of the vehicle, viz., the 1st appellant has in his oral examination stated that he had not given his vehicle to the person, who is said to have driven the vehicle at that relevant point of time, the same is not corroborated in his counter/written statement. The deposition of R-2 is also on similar lines. In such view of the matter, the Tribunal held that the vehicle belonging to the 1st appellant was involved in the accident and, therefore, the 1st appellant, as the owner of the vehicle and the 2nd respondent as the insurer of the vehicle, were jointly and severally liable to pay the compensation. Accordingly, considering the simple injuries sustained by the claimant, the Tribunal awarded a sum of Rs.10,000/- as compensation.

7. On a overall perusal of the order passed by the Tribunal, this Court is of the considered opinion that the Tribunal has analysed the case in toto and has given a well considered finding and has awarded compensation, which is not only just and reasonable, but also paltry. The compensation awarded by the Tribunal is only a sum of Rs.10,000/-, which does not appear to be excessive even in the year 2005. Therefore, the compensation awarded is hardly adequate in the face of spiraling inflation and surge in cost of living. Inflation is naturally compounding, and a relentless destroyer of the value of money. The same is

supported by the decision of the Hon'ble Supreme Court in the case of ***Rathi Menon v. Union of India 2001 (2) KLT 12: (2001 AIR SCW 1074)***, wherein, the Apex Court, considering the value of money etc., held that compensation shall be payable on the basis of rules prevailing at the time of making the final order for payment of compensation and not on the money value which prevailed on the date of accident.

8. For the reasons stated above, the appeal fails and the same is dismissed, confirming the award passed by the Tribunal. Consequently, connected miscellaneous petition is closed.

9. The 2nd appellant/insurance company is directed to deposit the entire award amount as quantified by the Tribunal along with interest and costs, less the amount, if any, already deposited to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS, within a period of two weeks thereafter.

14.06.2017

Index : Yes/No
Internet :Yes/No
rkp/GLN

To

1. Motor Accidents Claims Tribunal
   Subordinate Judge, Mannarkudi.

2. The Section Officer, VR Section,
   High Court, Madras.

DR.S.VIMALA, J.

Rkp/GLN

C.M.A. No.1637 of 2017

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