

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2149 of 2017

and

C.M.P.No.11483 of 2017

The United India Insurance Company
Limited,
No.13-A, Nethaji Road, Cuddalore. ...Appellant/2nd Respondent

/Vs/

1.Sivaprakasam
2.Muthu

.. Respondents/Petitioner/
1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.09.2005 made in M.A.C.T.O.P.No.39 of 2004 on the file of the Motor Accidents Claims Tribunal, (First Additional Sub-ordinate Judge), Cuddalore.

For Appellant : Mr.S.J.Jagadev

JUDGMENT

The appeal has been filed by the Insurance Company challenging the quantum of compensation, which has been awarded at Rs.1,25,000/- as against the claim made for a sum of Rs.7,00,000/- in respect of dislocation of the left shoulder. The fact remains that this award is dated 21.09.2005.

2. The injured claimant, aged 27 years at the time of accident, an agriculturist and a contract labour (Civil Construction) at M/s.NLC Limited Neyveli, earning a sum of Rs.4,000/- per month, has filed the claim petition for compensation alleging that he sustained greivous injuries over left hand, left knee, left Ankle, left forehead, dislocation of left shoulder joint and multiple injuries all over body.

3. The tribunal has relied upon the evidence of the claimant, apart from the evidence of Doctor, who has spoken

about the disablement to the claimant. According to the doctor, there would be difficulty in carrying heavy objects and there would be difficulty in raising the hand over the head. The muscles were found without any strength and the disability is 40%. Disablement compensation has been awarded at the rate Rs.1000/- per percentage. When disablement compensation awarded the quantum of compensation awarded ie Rs.45,000/- towards loss of earning capacity is excessive. However, the amount of Rs.45,000/- would be under the head of cost of attendant and loss of enjoyment of amenities. The award passed by the tribunal is under the following heads;

Disability	:	Rs. 40,000
Medical expenses	:	Rs. 10,000/-
Extra nourishment	:	Rs. 5,000/-
Loss of earning capacity:		Rs. 45,000/-
Pain and suffering	:	Rs. 25,000/-

Total compensation	:	Rs.1,25,000/-

4. The details of compensation would go to show that the award is found to be reasonable and fair. For the year 2005, the award might have been excessive, but not in the year 2017. The appeal has no merits and the same is dismissed confirming the award of the tribunal. No costs. Consequently, connected miscellaneous petition is closed.

5. The appellant/Insurance Company is directed to deposit the entire award amount along with interest at 9% from the date of petition till the date of deposit and costs, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter.

सत्यमेव जयते

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sms/kv

To

1.The Motor Accidents Claims Tribunal,
(First Additional Sub-ordinate Judge), Cuddalore.

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

+1 cc to M/s.S.J.Jagadev Advocate sr 53165

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