

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.412 of 2017

&

C.M.P.No.2864 of 2017

The National Insurance Co.Ltd.,
165, Nethaji road,
Cuddalore. ... Appellant/4th Respondent

Versus

1.Narayanasamy
2.Sumathy
3.The National Insurance Co.Ltd.,
165, Nethaji road,
Cuddalore.
4.M.Udayakumar ... Respondents 2 to 4/
Respondents 1 to 3

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, Memorandum of Civil Miscellaneous Appeal against the award and decree dated 12-09-2006 made in M.C.O.P.No.1497 of 2004 on the file of The Motor Accidents Claims Tribunal, I Additional Sub Judge, Cuddalore.

For appellant : Mr.S.Arun Kumar
For Respondents: No Appearance

J U D G M E N T
सत्यमेव जयते

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.1497 of 2004, the Insurance Company has come forward with this Civil Miscellaneous Appeal.

2. The claimant, K.Narayanasamy, aged 50 years, a mason, earning a sum of Rs.7,500/- p.m., met with an accident that occurred on 01.08.2013 due to which he sustained grievous injuries and multiple fractures. Hence, he filed a claim petition in MCOP No.1497/2004 seeking compensation for a sum of Rs.5,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.1,69,600/- as compensation. The break up details of the same are as follows:-

Loss of earning capacity (1050x11)	-	Rs.1,38,000/-
Pain and sufferings	-	Rs. 20,000/-
Extra Nourishment	-	Rs. 10,000/-
Transport expenses	-	Rs. 1,000/-

Total		Rs.1,69,600/-

4. The learned counsel for the appellant submits that compensation awarded by the Claims Tribunal is very high and the same needs to be reduced.

5. A perusal of the award passed by the Claims Tribunal reveals that P.W.2- the doctor who examined the claimant has assessed the disability @ 35% and issued disability certificate Ex.P-6. The Claims Tribunal, fixing the monthly salary of the claimant at Rs.3,000/-, while accepting the disability assessed at 35%, adopting multiplier method and taking the multiplier at 11 has awarded a sum of Rs.1,38,000/- (1050x12x11) towards Loss of earning capacity. In the considered opinion of this Court, the Tribunal, based on the materials available on record, has appreciated the evidence in proper perspective and has awarded the compensation towards loss of earning capacity, which is reasonable and cannot be said to be excessive. Accordingly, the same is confirmed.

6. Insofar as the compensation awarded under the other heads, the Tribunal has awarded a sum of Rs. 20,000/- towards Pain and Sufferings, a sum of Rs.10,000/- towards Extra Nourishment and a sum of Rs.1,000/- towards Transport charges. Considering the nature of injuries suffered by the claimant, the period of hospitalisation and the treatment taken and the impact of the injuries on the future life of the claimant, this Court is of the view that the compensation under the above heads are just and reasonable and does not require any interference.

7. It is also needless to point out that value of money is drastically eroding and the compensation awarded, though may appear to be excessive in the year 2004, but as of 2017, the compensation cannot be said to be excessive or disproportionate.

8. For the reason aforesaid, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.1497 of 2004 dated 12.09.2006. Consequently, connected Miscellaneous Petition is closed.

9. The appellant/insurance company is directed to deposit the award amount along with interests and costs as awarded by the Tribunal, 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 judgment. 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.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

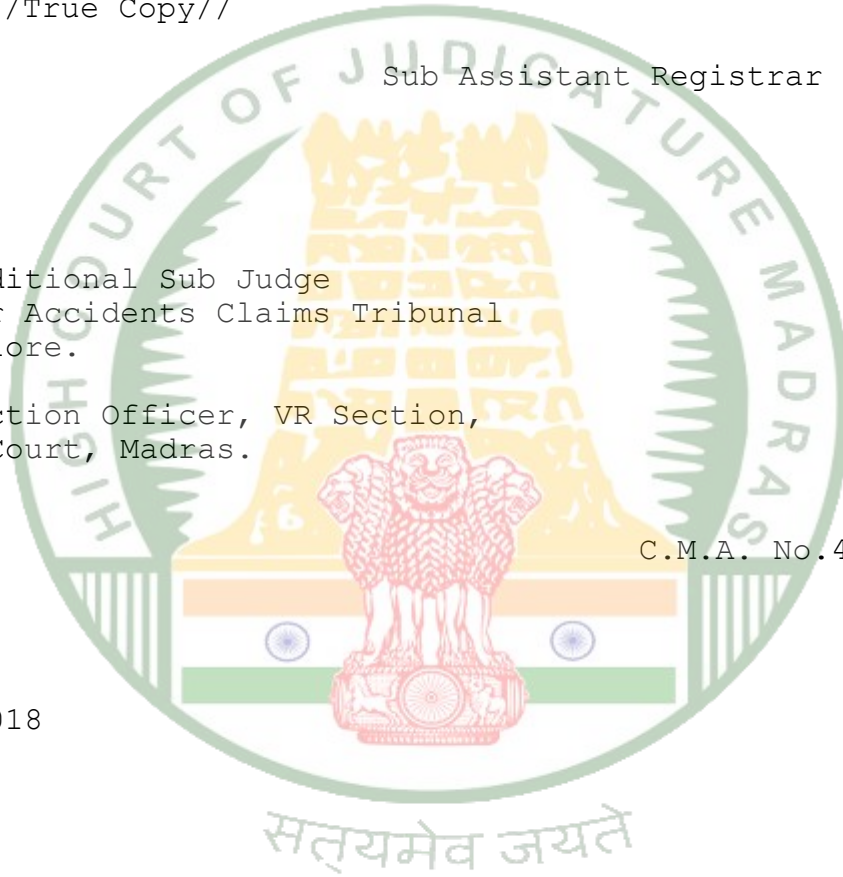
arr/GLN

To

1. The Additional Sub Judge
Motor Accidents Claims Tribunal
Cuddalore.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.412 of 2017

sv(co)
aa13/04/2018



WEB COPY