IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 09.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.478 of 2017

National Insurance Co. Ltd,
No.78, T.V.S. Veedhi,
Erode. .. Appellant/2nd Respondent

Versus

1. Arunagiri .. Respondent/petitioner
2. V.M. Shamugam .. Respondents/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.05.2003 made in M.C.O.P.No.924/1997 on the file of Motor Accident Claims Tribunal (Additional District Judge) (Fast Track Court - V), at Coimbatore Camp, Tiruppur.

For appellant : Ms. Sreevidhya

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.924 of 1997, dated 30.05.2003, the Insurance Company has filed this Appeal.

2. The claimant, Arunagiri, aged 29 years, working as a Messenger in Thiruppur Lakshmi Vilas Bank, earning a sum of Rs. 3,000/- per month, met with an accident that occurred on 12.08.1997 due to which he sustained grievous injuries and also sustained fracture in left shoulder, left leg, right abdomen and right thigh. Hence, he filed a claim petition, in M.C.O.P.No.924 of 1997, seeking compensation in a sum of Rs.5,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs. 3,90,700/- (Rupees Three Lakhs Ninety Thousand Seven Hundred Only) as compensation. The break up details of the same is as follows:

Loss of Earnings (1500x12x18)	:	Rs. 3,24,000/-
For Grievous injuries	:	Rs. 5,000/-
Medical expenses	:	Rs. 61,650/-
		Rs.3,90,650/-

4. The learned counsel for the appellant submits that the compensation awarded by the Tribunal is very high and the same needs to be reduced. It is his further submission that the Tribunal ought not to have adopted multiplier method while quantifying the compensation. It is his further submission that the claimant is working in Lakshmi Vilas Bank, and even though he suffered injuries there is no scope for loss of earning capacity and the Claims Tribunal ought not to have awarded any compensation under this head.

5. Though such a contention is advanced on behalf of the appellant, the same deserves to be rejected for the reason that the nature of injuries sustained by the claimant are grievous in nature and further the fracture sustained by the claimant would lead the Court to the irresistible conclusion that the disablement suffered by the claimant is of such a nature that his employment is likely to be affected and definitely he would suffer loss of earning. Considering the above aspects, the Tribunal has adopted the multiplier method for quantification of compensation and has rightly adopted the proper multiplier and quantified the compensation at Rs.3,24,000/- towards loss of earning capacity.

5.1. The further contention of the learned counsel for the appellant that the claimant being employed in a bank, there would not no loss of earning and, therefore, the compensation cannot be awarded also cannot be accepted. The saleability of the injured/claimant in the employment market would be low. The promotion prospects would get diminished.

6. Insofar as the compensation awarded under the other heads are concerned, the Tribunal, after taking into account of Exs.P-3 to P-7, the medical bills in support of the treatment taken by the claimant has awarded a sum of Rs.61,650/- under the said head. Though the Tribunal has awarded a sum of Rs.5,000/= under the head 'For Grievous Injuries', however compensation under the said head is impermissible. However, no compensation has been awarded under the head pain and suffering. Accordingly, the compensation awarded towards grievous injuries will stand transposed to the head pain and suffering and,

accordingly, the sum of Rs.5,000/- is awarded as compensation towards pain and suffering.

7. Hence, this Court is of the view that the amount of compensation awarded by the Claims Tribunal is reasonable and the same need not be interfered with. Accordingly, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.924 of 1997 dated 30.05.2003.

8. The appellant/insurance company is directed to deposit the award amount along with interests and costs as quantified 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 order. On such deposit being made, the Tribunal shall transfer the same directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS-ii)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Motor Accident Claims Tribunal
(Additional District Judge)
(Fast Track Court - V)
at Coimbatore Camp, Tiruppur.

2. The Section Officer,
VR Section, High Court,
Madras.(2 copies)

C.M.A. No.478 of 2017

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