

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 31.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.479 of 2017

and

CMP.No.3178 of 2017

National Insurance Co. Ltd.,
74-A, Paramathi Road,
Namakkal.

.... Appellant

Versus

1. R.Kathirvelu
2.K.Karuppiah

.... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the Award dated 29.07.2004 made in W.C.No.70 of 2002 on the file of the Deputy Commissioner, Workmen's compensation Tribunal, Salem.

For Appellant : Mr.S.Arun Kumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Workmen Compensation Tribunal, Salem, in W.C.No.70 of 2002, the Insurance Company has come forward with this Civil Miscellaneous Appeal.

2. One Kathirvel, aged 46 years, employed as a driver, earning a sum of Rs.5,000/- per month, met with an accident on 14.10.2001, in which he sustained grievous injuries. Hence, he filed a claim petition before the Workmen Compensation Tribunal, Salem, in W.C.No.70 of 2002, seeking compensation in a sum of Rs.5,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence

awarded a sum of Rs.1,20,288/-, with a direction to pay the said compensation within a period of thirty days from the date of receipt of a copy of the order, failing which to pay 9% interest from the date of accident till the date of deposit. Challenging the same, the Insurance Company has filed this appeal.

4. Learned counsel appearing for the appellant submits that the Tribunal, without any proper proof, has erred in coming to the conclusion that the injured has lost 40% of the earning power. He further submitted that since the injured continues his avocation, loss of earning, does not arise.

5. A perusal of the award passed by the Deputy Commissioner, Workmen Compensation, Salem, would reveal that the Tribunal, on the basis of Ex.P-2 – Driving Licence, fixed the age of the injured at 46. P.W.2, the Doctor who examined the claimant has certified the disability suffered @ 25% and has issued Ex.P7, disability certificate. The Workmen Compensation Tribunal, Salem on consideration of nature of injuries sustained and the nature of employment of the claimant, fixed the disability @ 40% and by adopting relevant factor of 166.29, quantified the compensation at Rs.1,20,288/-.

6. A careful perusal of the order of the Tribunal reveals that based on proper appreciation of evidence, the compensation has been quantified and not without any evidence. When the Tribunal has arrived at the compensation based on evidence, without there being evidence to the contra submitted by the appellant/insurance company, the finding arrived at by the Tribunal is not liable to be interfered with. In the case on hand, no evidence contra to the one submitted by

the claimant has been produced before the Tribunal. Such being the case, this Court is of the considered view that the compensation awarded is reasonable and the same needs no interference.

6. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and decree of the Workmen Compensation Tribunal, Salem, made in W.C.No.70 of 2002. Consequently, connected Miscellaneous Petition is closed.

7. It is submitted that consequent upon the order of the Tribunal, the compensation amount has been deposited. The Tribunal is directed to transfer the compensation amount to the bank account of the claimant through RTGS within a period of two weeks from the date of receipt of a copy of this order.

31.01.2017

Index : Yes / No

Internet : Yes / No

arr/GLN

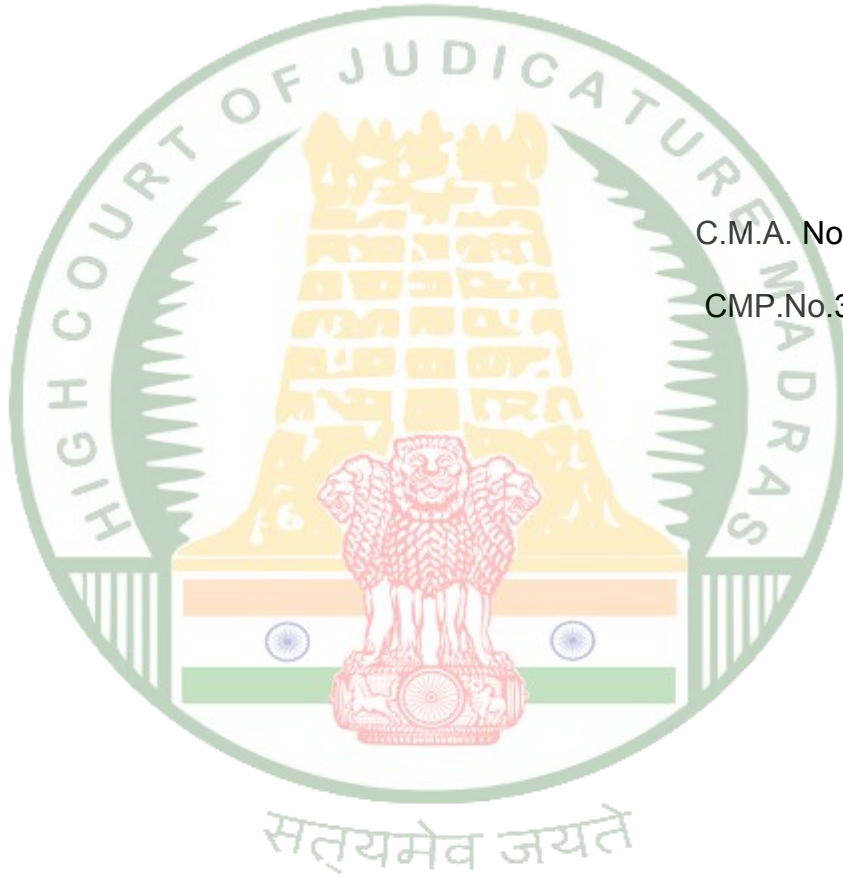
To

The Deputy Commissioner
Workmen's compensation Tribunal
Salem.

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DR.S.VIMALA,J.

Arr/GLN



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