IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 22.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 664 of 2017
and
CMP.No.3719 of 2017

The New India Assurance Company Ltd.,
Vellore,
Rep. by the Deputy Manager,
Motor Third Party Claims Cell
54, Moore Street, Chennai -1.
.. Appellant/2nd Respondent

Versus

Mr.Elumalai .. Respondent /Petitioner

Prayer:Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.03.2004 made in M.A.C.O.P.No.236 of 2002 on the file of the Motor Accident Claims Tribunal & Principle Sub Judge, Thiruvannamalai.

For appellant : Mr.M.Dhamodharan

J U D G M E N T

Challenging the finding of liability as well as quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.236 of 2002, dated 30.03.2004, the Insurance Company has filed this Appeal.

2. The claimant, Elumalai, working as a driver, earning a sum of Rs.4,500/- per month met with an accident on 17.11.2001 due to which he sustained injuries on right palm, right shoulder, right leg, head injury and right wrist. Hence, he filed a Claim Petition in M.A.C.O.P.No.236 of 2002, seeking compensation in a sum of Rs.1,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs. 43,400/- (Rupees Forty Three Thousand four hundred Only) as compensation. The break up details of the same is as follows:

Loss of earning capacity (1000x12x11=1,32,000x20/100)	-	Rs.26,400/-
Fracture and grievous injuries	-	Rs. 5,000/-
Loss of income for one year	-	Rs.12,000/-
		Rs. 43,400/-

4. Learned counsel for the appellant submits that the compensation awarded by the Tribunal is very high and the same needs to be reduced. He further submitted that the accident had happened only due to negligence of the claimant and, therefore, the liability fastened on the appellant is unsustainable.

5. A perusal of the award passed by the Claims Tribunal reveals that since no document was produced on the side of the claimant to prove his income, the tribunal fixed the monthly income of the claimant at Rs.1000/-. Though, P.W.2- the Doctor who examined the claimant, has assessed the disability at 45%, the Claims Tribunal has fixed the functional disability @ 20% and, accordingly, quantified the loss of earnings at Rs.26,400/- (Rs.1000 X 12 X 11 X 20/100). The Tribunal has quantified the compensation on appreciation of the evidence in proper perspective and has also conservatively fixed not only the monthly income, but also the disability suffered by the claimant. In such circumstances, the compensation awarded towards loss of earning cannot be said to be excessive. Accordingly, the same is confirmed. The Tribunal has further awarded a sum of Rs.5,000/- towards and fracture and grievous injuries and a sum of 12,000/- has been awarded towards loss of income for one year. The above said compensation is also just and reasonable and is also meagre and, therefore, no interference is called for.

6. The compensation awarded by the Tribunal is only a sum of Rs.43,400/- which does not appear to be excessive even in the year 2001. 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 it has been held that considering the value of money etc., 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. In such view of the matter, this Court is of the considered view

that the compensation awarded cannot be said to be excessive or unreasonable.

7. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.236 of 2002 dated 30.03.2004. Consequently, connected miscellaneous petition is closed.

8. The Insurance Company is directed to deposit the compensation amount along with interests and costs 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.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

arr/GLN

To

1. The Motor Accident Claims Tribunal,
(Principal Sub Judge)
Tiruvannamalai.

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

C.M.A. No.664 of 2017

MR(CO)
GN(11/04/2018)