

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.02.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.760 of 2017
and C.M.P.No.4108 of 2017

United India Insurance Company Ltd.,
3, Giri Ram Buildings,
Main Road, Gobichettipalayam.Appellant/2nd Respondent

Vs.

1.Elango @ Elavarasan ...1st Respondent/Petitioner
2.K.S.Karuppusamy ...2nd Respondent/1st Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.03.2005 made in M.C.O.P.No.206 of 2004 on the file of the Motor Accidents Claims Tribunal, [Principal Sub Judge], Gobichettipalayam.

For Appellant : Mr.K.Suryanarayanan
For Respondent : Mr.Ma.Pa.Thangavel for R1

J U D G M E N T

The claimant, Elango @ Ilavarasan, aged 30 years, a helper [coolie], earning a sum of Rs.4,500/- per month, met with an accident on 19.04.2003 in which he sustained injuries. Therefore, he filed a claim petition claiming compensation in a sum of Rs.7,00,000/- as compensation.

2.The Tribunal, on consideration of oral and documentary evidence, awarded compensation in a sum of Rs.5,05,400/- under the following heads :-

Loss of income	-	Rs.2,78,400/-
Medical expenses	-	Rs.2,22,000/-
Pain and suffering	-	Rs. 3,000/-
Nourishment	-	Rs. 2,000/-

Total Rs.5,05,400/-

Challenging the award as excessive, the Insurance Company has filed this appeal.

3.Learned counsel appearing for the appellant contended that the Tribunal should not have relied upon the evidence of doctor in order to assess the percentage of disablement. It is further submitted that the Tribunal erred in fixing the disability at 50% and the award of a sum of Rs.2,78,400/- towards loss of income is excessive and therefore, the award under the head loss of income needs interference.

4.Though very many grounds have been raised in the appeal assailing the order of the Tribunal, however, at the time of argument, learned counsel appearing for the appellant restricted his argument only insofar as the quantum of compensation awarded by the Tribunal and, therefore, this Court is dealing only with the said issue pertaining to quantum of compensation.

5.In order to appreciate the contentions advanced above, it is necessary to have a perusal of the details of the injuries and the period of treatment undergone by the claimant. It is also to be pointed out that the claimant is said to be a helper and whether this disability would affect the earning capacity of the claimant.

6.At the time of accident, the claimant was aged 30 years and he suffered multiple injuries all over the body. Taking into account the injuries sustained by the claimant and the difficulties faced by the claimant in discharging his day-to-day activities and also the impact of the injuries on the future life of the claimant, the Tribunal adopting the multiplier method, quantified the loss of earnings at Rs.2,78,400/- by fixing the percentage of disability at 50%. The contention of the appellant that the percentage of disability fixed is on the higher side as the disability suffered by the claimant does not hamper his earning power is totally misconceived. On the basis of medical opinion, the Tribunal has analysed the evidence and fixed the disability at 50% and has awarded compensation of Rs.2,78,400/- under the head loss of income cannot be said to be on the higher side. The said approach of the Tribunal, in the considered opinion of this Court, cannot be found fault with.

7.Insofar as the award under the other heads are concerned, a careful perusal of the award reveals that the Tribunal has conservatively awarded compensation, which are just and reasonable and cannot be termed to be excessive.

8.For the reasons aforesaid, there being no merits in the appeal, it is liable to be dismissed. Accordingly, the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

9.The appellant/Insurance Company is directed to deposit the entire award amount along with interest at 6% per annum from the date of petition till the date of deposit, 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 award amount directly to the bank account of the claimant/first respondent through RTGS within a period of two weeks thereafter.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

gya/GLN

To

1.Motor Accidents Claims Tribunal,
[Principal Sub Judge], Gobichettipalayam.

2.The Manager, United India Insurance Company Ltd.,
No.3, Giri Ram Buildings, Main Road, Gobichettipalayam.

3.The Section Officer,
V.R.Section, High Court, Madras.

C.M.A.No.760 of 2017

and

C.M.P.No.4108 of 2017

SJ(CO)

sm:21.3.2018

सत्यमेव जयते

WEB COPY