

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.769 of 2017

and C.M.P.No.4110 of 2017

United India Insurance Co. Ltd.,
Branch Office,
No.5, T.V.Samy Road,
R.S.Puram, Coimbatore.

... Appellant / 2nd respondent

versus

1. K.Gnanavel ... 1st respondent/Petitioner
2. C.Velayudan Kutty ... 2nd respondent/1st respondent
3. M.Banumathi ... 3rd respondent/2nd respondent
(R2 and R3 remained ex parte
before the Tribunal)

Prayer : The appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 30.10.2009 made in M.C.O.P.No.138 of 2007 on the file of the Motor Accident Claims Tribunal (II Additional Sub Court), Coimbatore.

For Appellant : Mr.T.Ravichandran
For R1 : Mr.Jaibharath

JUDGMENT

The claimant, Gnanavel, aged 42 years, a Mill worker at the Lakshmi Mills Co. Ltd., Singanallur Branch, Uppillipalayam, Coimbatore, earning a sum of Rs.4908.61 per month, met with an accident on 14.08.2000 and sustained injuries. Hence, he filed a claim petition in M.C.O.P.No.138 of 2007 on the file of the Motor Accident Claims Tribunal (II Additional Sub Court), Coimbatore, claiming compensation of Rs.4,50,000/-

2. The Tribunal, on considering the oral and documentary evidence, has awarded a sum of Rs.1,66,262/- as compensation, the break-up details of which are as under:

Loss of earnings	-	Rs.1,26,000/-
Pain and suffering	-	Rs. 15,000/-
Permanent disability	-	Rs. 17,300/-
Medical Expenses	-	Rs. 4,962/-
Damage to cloth and article	-	Rs. 500/-
Extra nourishment	-	Rs. 500/-
Transport to Hospital	-	Rs. 2,000/-
	-	-----
Total	-	Rs.1,66,262/-
	-	-----

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

3. It is the contention of the learned counsel appearing for the Insurance Company that there is no proof to show that there was loss of earning for a period of 36 months and, therefore, the compensation awarded at Rs.1,26,000/- is very excessive. Therefore, the same requires interference.

4. A perusal of the award passed by the Tribunal reveals that the claimant has suffered fracture over left clavicle, contusion of left upper part of the thigh, abrasion over the base of left great toe. He was admitted in PSG Hospital, Coimbatore. The Doctor has assessed the disability at 17.3%, which is stated to be permanent partial disability.

5. Considering Ex.P9-Resignation letter and also considering the admission of the claimant that he has received half of the salary, i.e. Rs.3,500/- during the leave period, i.e from 14.08.2002 to 13.08.2004, the Tribunal has awarded a sum of Rs.1,26,000/- towards loss of earning for 36 months (at the rate of Rs.3,500/- p.m.). Considering the injury sustained and the impact of the injury on the earning capacity, the said amount cannot be said to be excessive. Furthermore, the Tribunal has not awarded any amount towards loss of enjoyment of amenities and attender charges. Further, the compensation awarded under the other heads are also reasonable. Only an amount of Rs.17,300/- has been awarded under the head permanent disability, which is diverted to the head of loss of enjoyment of amenities. Therefore, the compensation awarded by the Tribunal, on the materials available on record and the facts and circumstances of the case cannot be said to be excessive and, accordingly, the same is confirmed.

6. There being no merits, the appeal is liable to be dismissed and, accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 30.10.2009 made in M.C.O.P.No.138 of 2007 on the file of the Motor Accident Claims Tribunal (II Additional Sub Court), Coimbatore. Consequently, connected miscellaneous petition is closed.

7. The Insurance Company is directed to deposit the entire compensation awarded by the Tribunal, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of 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 shall transfer the same directly to the Bank Account of the claimant through RTGS within two weeks thereafter.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ogy/gln
To

1. The Motor Accident Claims Tribunal
(II Additional Sub Court),
Coimbatore.

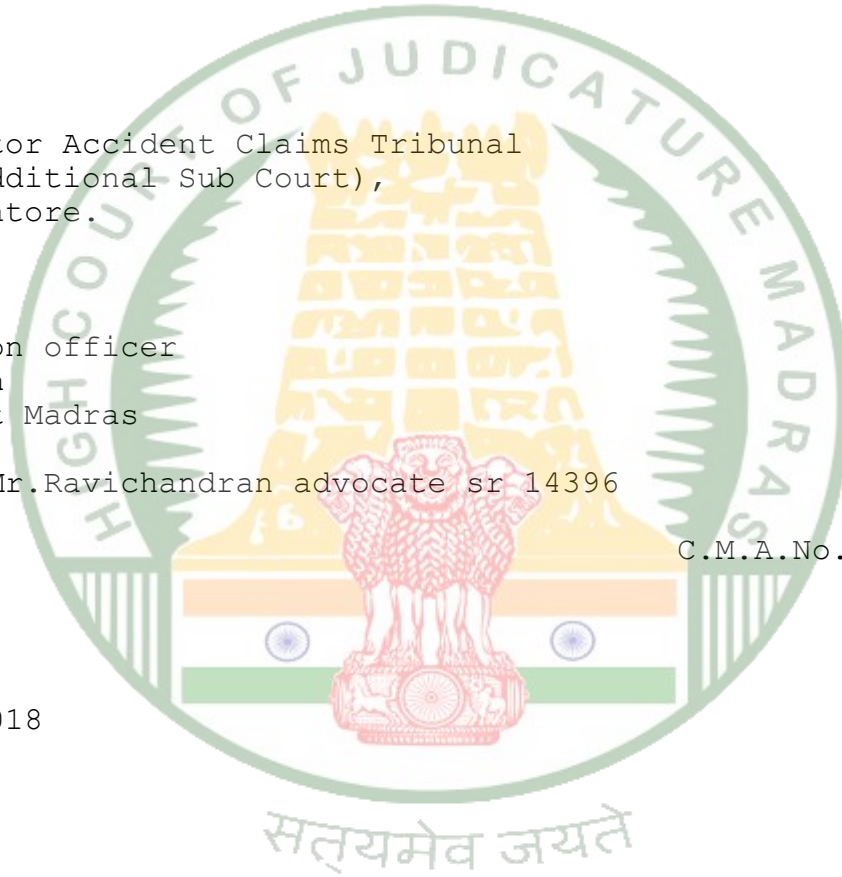
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The Section officer
VR Section
High Court Madras

+1 cc to Mr.Ravichandran advocate sr 14396

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