

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.774 of 2017
and C.M.P.No.4111 of 2017

National Insurance Co. Ltd.,
City Branch II, 94/34 Dr.Nanjappa Road,
II Floor, United Complex,
Coimbatore 18.
Rep. by its Branch Manager ... Appellant/3rd Respondent

Vs.

1.M.Murugappan
2.R.Logaraj
3.K.Gurusamy ... Respondents/Petitioner/1st and 2nd Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 17.08.2006 made in M.A.C.T.O.P.No.488 of 2005 on the file of the Motor Accident Claims Tribunal, [II Addl. Sub Judge], Erode.

For Appellant : Mr.K.Suryanarayanan

J U D G M E N T

On 18.5.2005, the claimant, while riding as a pillion rider in the vehicle bearing registration No.TN-33-X-2728, the vehicle met with an accident, in which the claimant, Murugappan, aged 38 years, suffered injuries. Therefore, he filed a claim petition in M.C.O.P.No.488 of 2005 before the Motor Accident Claims Tribunal, [II Addl. Sub Judge], Erode, claiming a sum of Rs.3,00,000/-.

2.It was alleged by the claimant that he was running a power loom and earning a sum of Rs.15,000/- per month. Based on oral and documentary evidence, the Tribunal has awarded compensation in a sum of Rs.2,31,810/-. Challenging the same as exorbitant and disproportionate to the injuries suffered by the claimant, the appellant/insurance company is before this Court by filing the present appeal.

3. Heard the learned counsel appearing for the appellant and perused the materials found in the typed set of documents as also the judgment passed by the Tribunal. The only ground raised by the learned counsel appearing for the appellant is on the quantum submitting that the award passed is disproportionate and exorbitant.

4. The Wound Certificate issued in respect of the injuries suffered by the claimant discloses the following injuries:

- i. a diffuse swelling over right temporal region.
- ii. right side ear blood.
- iii. diffuse swelling abrasion 3 x 5, 2 x 5, 2 x 5 over dorsum of right feet.
- iv. Contusion right parietal prominence.

5. The doctor, who was examined as P.W.2, though certified the disability at 26%, the Tribunal has restricted the percentage of disability to 20%. Considering the injuries as noted in the Wound Certificate, the disability at 20% cannot be said to be unreasonable. Further, adopting Rs.1,000/- per percentage of disability, the Tribunal has awarded compensation for disablement in a sum of Rs.20,000/-, which is fair and reasonable. Medical expenses, supported by bills, has been awarded at Rs.29,810.05/-. PAN card, Partnership Deed and Income Tax Returns have been filed to show that the average income of the claimant per year was Rs.1,62,000/-.

6. Though the average annual income of the claimant was shown to be Rs.1,62,000/-, on the basis of very many documentary evidence, despite the same, the Tribunal has fixed monthly income at a nominal value of Rs.4,500/-. The disablement compensation has been arrived at Rs.1,62,000/- (Rs.4500 x 12 x 20/100 x 15). Towards extra nourishment, transportation expenses, damages to clothing and damage to the vehicle, a sum of Rs.5,000/- has been awarded in toto, while a sum of Rs.15,000/- has been awarded towards pain and suffering. Compensation in a sum of Rs.20,000/- has been awarded towards disability. In all, the Tribunal has awarded a total compensation of Rs.2,31,810.05ps.

7. Considering the reasons given by the Tribunal for award of the above amounts and the amounts also being very minimal, which cannot be termed to be exorbitant and the quantification towards loss of earning power has also been quantified properly on the basis of the working given by the Supreme Court in Sarla Verma's case [reported decision in 2009 [6] SCC 121], the award cannot be said to be disproportionate or exorbitant. No other ground has been raised for the consideration of this Court.

8. Accordingly, finding no merit, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

9. The Appellant/Insurance company is directed to deposit the entire award amount together with interest and costs as awarded 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 judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

gya/GLN

To

1. The Motor Accident Claims Tribunal,
[II Addl. Sub Judge],
Erode.

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

C.M.A.No.774 of 2017

GJ (CO)
SP (12/02/2018)

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