

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.75 of 2008
and MP.No.1 of 2008

National Insurance Company Ltd.,
Motor Third Party Claims Cell,
Anna Salai, Chennai.

... Appellant

Vs.

1.V..Kumaresan
2.S.Selvakumari
Respondents

...

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award and decree dated 11.07.2007 made in MCOP.No.2289 of 2002 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes), Chennai.

For Appellant : Mr.D.Bhaskaran
For Respondents : No Appearance

JUDGMENT

The Insurance Company which is arrayed as second respondent in MCOP.No.2289 of 2002 on the file of the Motor Accident Claims Tribunal (V Small Causes Court) Chennai, has filed this appeal challenging the quantum of compensation awarded.

2. It is the case of a ambassador car knocking and fracturing a cyclist. The case of the claimant was that on 29.11.2001, while he was going in his cycle, a Ambassador car bearing registration No.TN59-L-5062 belonging to

the second

respondent herein (first respondent before the Tribunal) and insured with the appellant came from behind and knocked him down. In the accident the claimant suffered fracture in the neck of left femur. For the injuries that he had suffered, he moved the Tribunal with a claim of Rs.9,00,000/-, as against which Rs.1,85,685/- was awarded by the Tribunal to the claimant and it was directed to be paid jointly or severally by the owner of the vehicle as well as the Insurance Company with interest at 7.5% per annum.

3. The learned counsel for the appellant essentially contested the payment of Rs.50,000/- towards future medical expenses. This he argued is essentially speculated even though the claimant had underwent surgeries and implanted plates to correct his fracture.

4. The claimant in this case has not yet been served with notice. However, he has not filed any appeal seeking for enhancement of compensation. I further conclude that for the conclusion I have arrived which is to be spelt out herein below, I dispense with notice to the claimant. It is needed to be emphasised that this Court is now dealing with a case of an accident happened some fifteen years ago in November, 2001.

5. The petitioner claims that he was a fabrication worker in M/s.Saravana Body Works, Chennai, and the nature of the injury suffered to the neck of

the femur has a great potential to affect his ability to work. If so viewed, it could well be a case of functional disability. If so reckoned whatever objection the appellant has now taken for awarding future medical expenses will vanish into insignificance. Since the claimant showed no interest to file an appeal seeking enhancement of compensation, it has to be presumed that he is satisfied with the amount determined by the Tribunal.

6. In the result, I do not find merit in this appeal and hence dismissed without costs. The learned counsel for the appellant submitted that the entire award amount has already been deposited in the Court and the claimant is permitted to withdraw the same, if he has not already withdrawn it. Consequently, connected miscellaneous petition is closed.

24.01.2017

ds

Index : Yes/No
Internet:Yes/No

To

1.The Motor Accident Claims Tribunal,
V Court of Small Causes,
Chennai.

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

N.SESHASAYEE, J.

ds

CMA.No.75 of 2008

24.01.2017