

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2175 of 2017
and
C.M.P. No.11514 of 2017

The Branch Manager,
National Insurance Company Ltd.,
7, Raja Street, Gobi.

.. Appellant

Versus

1. Jayaram
2. P.Samiappan

.. Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 29.11.2007 made in O.P. No.1129 of 2005 on the file of the Motor Accidents Claims Tribunal (Additional District Court /Fast track Court No.IV), Coimbatore at Tiruppur.

For Appellant : Mr.D.Bhaskaran

JUDGMENT

Petition to condone the delay of 133 days in filing the C.M.A. SR No.98691 of

2008, was taken up along with the main appeal to be heard on merits.

2. Jayaram, the claimant / injured 23 years, a building worker earning a sum of Rs.200/- per day, met with an accident on 10.11.2005. He suffered fracture on left hip anterior dislocation, posterior dislocation at right hip, soft tissue injuries over right elbow left leg, apart from injuries all over the body. According to the claimant, because of the fracture, his arm has become paralysed and he is entitled to claim a sum of Rs.5,00,000/- as compensation.

3. The Tribunal on a consideration of the materials placed before it has quantified the compensation as Rs.6,21,500/- and the break up details are as under:-

Loss of earning power @ 70%	: Rs.4,03,200.00
Medical bills as per Ex.A.4	: Rs.1,88,258.28
Pain and sufferings	: Rs. 20,000.00
Extra nourishment	: Rs. 5,000.00
Transport expenses	: Rs. 2,000.00
Loss of income	: Rs. 3,000.00
Total	: Rs.6,21,458.28

4. The Doctor has certified the disability percentage at 82%. Disability was taken on account of restriction of movement of the left hip joint, left knee joint, left ankle joint and loss of muscle power and loss of stability. The loss of earning power

5. The income has been fixed at Rs.3,000/- p.m., branding the employment as irregular in nature. The multiplier applicable to the age of **29** years is taken as 16 in respect of 70% of loss of earning capacity, the loss is estimated at Rs.4,03,200/-. The loss on account of medical expenditure has been estimated at Rs.1,88,258.28 (as per Ex.A4 and it has been awarded, as supported by the bills.

6. The following are other heads of compensation, pain and suffering at Rs.20,000/-, Extra nourishment at Rs.5,000/-, Transport expenses at Rs.2,000/-, loss of income during the period of treatment at Rs.3,000/- and thus the total compensation was awarded at Rs.6,21,500/- (Rounded off).

7. The learned counsel appearing for the appellant would submit that the amount claimed itself is Rs.5,00,000/- and the amount awarded by the Tribunal at Rs.6,21,500/- which is excessive. It is true that the award is more than the amount claimed. The law do not prohibit awarding of more compensation than what is claimed. In fact, there is a duty to award just compensation. The details of award passed would go to show that the award passed is just and reasonable.

8. It is relevant to point out that compensation for the loss of enjoyment of amenities and loss of expectation of life has not been awarded.

9. Under the stated circumstances, the amount cannot be said to be excessive, especially when the award dated 29.11.2007 is under consideration in the year 2017, where there is escalation in the price of the commodities with corresponding reduction in the value of money. Therefore, the award is confirmed.

10. In view of the above, the appeal has no merits and thus the appeal is dismissed, even though the delay is condoned. Consequently, miscellaneous petition is also closed. No costs.

11. The appellant /Insurance company is directed to deposit the entire award amount along with interest and costs as ordered by the Tribunal, less the amount already deposited, if any before the Tribunal, 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.

Even though the delay is condoned, the appeal is dismissed.

07.07.2017

Index : Yes / No

Internet : Yes / No

Speaking/Non speaking

Dr.S.VIMALA, J.
vsi2

To

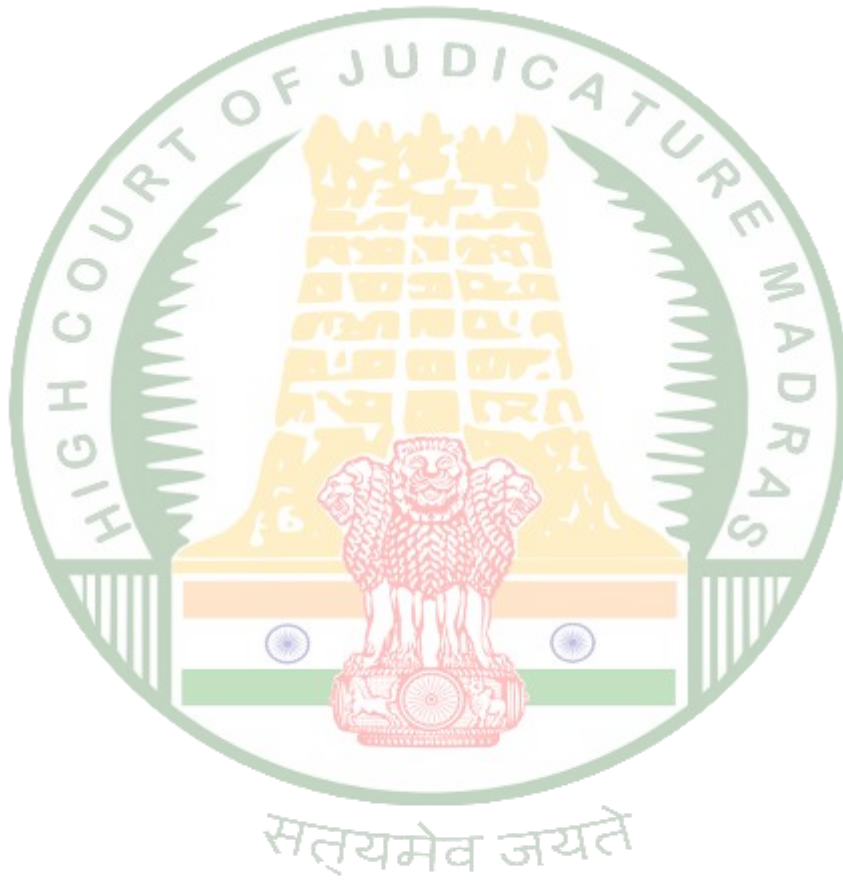
1. The Motor Accidents Claims Tribunal
(Additional District Court /
Fast track Court No.IV), Coimbatore at Tiruppur.

2. The Section Officer,
V.R. Section,
High Court, Madras – 104.



C.M.A. No.2175 of 2017

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