

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2596 of 2017

and

C.M.P.No.14248 of 2017

United India Insurance Co.Ltd.,
Cuddalore.

..Appellant/2nd Respondent

/Vs/

1. Ramani @ Venkatraman ..1st Respondent/Petitioner

2.J.Vennila ..2nd Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.04.2006 made in M.A.C.T.O.P.No.541 of 2005 on the file of the Motor Accident Claims Tribunal and Additional District Judge and Fast Track Court No.II, Cuddalore.

For Appellant : Mr.S.Ramalingam

JUDGMENT

The claimant, Ramani @ Venkataraman, aged 40 years, employed as Typewriter Mechanic, Purohit, Vasthu Sastra expert opinion giver, earning a sum of Rs.10,000/-, met with an accident on 26.02.2003 in which he suffered nasal bone fracture, grievous injuries on the fore head with sutured wounds and that the eye sight was also affected, dislocation of left side shoulder and multiple injuries in all over the body. Therefore, he filed a claim petition claiming compensation in a sum of Rs.5,00,000/-. The Tribunal, considering the oral and documentary evidence, passed an award for a sum of Rs.1,69,000/-, the breakup of which are as hereunder:-

Loss of Income	:	Rs.1,44,000/-
Disability Compensation	:	Rs. 15,000/-
Pain and suffering	:	Rs. 10,000/-

Total	:	Rs.1,69,000/-
-------	---	---------------

Challenging the quantum of compensation awarded, the Insurance Company has filed this appeal.

2. The main contention raised by the learned counsel for the appellant is that the kind of injuries, viz., nasal fracture, etc., will not lead to loss of earning capacity and therefore, the award is excessive and it has to be reduced. In other words, the contention raised is that the disability suffered is not so very serious and, therefore, the Tribunal ought not to have adopted multiplier method of quantification while assessing the loss of earning capacity.

3. In support of the above contention, reliance is placed on the decision in 2005 (1) TN MAC 87 (DB) (United India Insurance Company Ltd., Branch Officer, 146, N.Kumar Complex, Tiruchengode Vs. V.Veluchamy and another). In the said decision, it has been held that even though multiplier was a fixed one for a particular age group depending upon the nature of injury, multiplier can be adopted in a different way, i.e., multiplier can be reduced also.

4. In order to appreciate the above contention, it is necessary to find out the nature of the injury, period of treatment and the impact of treatment upon the quality of life. In paragraph 11 of its order, the tribunal has described in detail the injuries suffered by the claimant.

5. Multiple injuries measuring 4 x 4 cm, in the forehead, 5 x 5 cm. in the left shoulder, 5 x 5cm fracture of nasal bone are spoken to by the doctor. It is also seen that 16 stitches were made in the head and the doctor has certified the disability at 40%. However, the Tribunal has taken the disability only at 35%, on the ground that it is only an approximate estimate by the Doctor. In the evidence of PW1, though he has stated that he was earning a sum of Rs.10,000/- per month, however, disbelieving the said evidence, the Tribunal, very conservatively, fixed the monthly income only at Rs.1000/- per month and placing reliance on the decision in Veluchamy case (supra), adopted the multiplier of 12 and quantified the loss of earning capacity at Rs.1,44,000/= (Rs.1000 x 12 x 12).

7. Further, towards pain and suffering, taking into consideration the injuries suffered, compensation has been awarded at Rs.15,000/= and, disability compensation also has been only awarded at a meagre Rs.15,000/-, though the Tribunal itself has fixed the disability at 35%. In all, a total compensation of Rs.1,69,000/- along has been award. While the compensation for disability itself is very low, it is further seen from the award that no compensation has been awarded towards loss of enjoyment of amenities, medical expenses and cost of attendant. In such the contention of the learned counsel for the appellant that the award passed is excessive cannot be accepted. It should also be borne in mind that the award is of the year 2006 and the money value as on today has

depreciated considerably and, therefore, the award cannot be said to be excessive and unreasonable.

8. For the foregoing reasons, the appeal, being devoid of merits is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

9. The appellant/Insurance company is directed to deposit the entire award amount, as ordered by the Tribunal, along with interest at 7.5% from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of MCOP No.541 of 2005 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 amount directly to the bank account of the claimant/first respondent through RTGS within a period of two weeks thereafter.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

kv/sms/GLN

To

1. The Motor Accident Claims Tribunal
(Additional District Judge - FTC-II)
Cuddalore.

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

C.M.A.No.2596 of 2017
and

C.M.P.No.14248 of 2017

CNR(CO)
SP(27/02/2018)

WEB COPY