

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.2693 of 2017

and

C.M.P. No.15049 of 2017

The National Insurance Company Ltd.,
Branch Office,
Krishnagiri Town

...

Appellant/2nd Respondent

Versus

1. V. Sakthivel

2. B.Kannaiyan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 22.06.2005 made in M.C.O.P. No.141 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Krishnagiri

For Appellant : Mr.S. Arun Kumar

JUDGMENT

The claimant, Sakthivel, aged 18 years, an agricultural labourer, earning a sum of Rs.2,500/- p.m., met with an accident on 09.08.2002. He suffered fracture of both the bones in the left leg and injury over the left hip joint and the left wrist. Alleging that the accident made him immobile and disability suffered has serious impact on the earning capacity, he filed the claim petition claiming a sum of Rs.3,00,000/- as compensation.

2. The Tribunal, on a consideration of the materials available on record, awarded a sum of Rs.2,00,000/- as compensation, the break-up details of which is as under :-

Compensation on account of injuries:	Rs.60,000/-
Partial loss of income	: Rs. 2,500/-,
Transport expenses	: Rs. 5,000/-
Extra nourishment	: Rs. 5,000/-
Medical expenses	: Rs.20,000/
Future medical expenses	: Rs. 5,000/-,
Pain and sufferings	: Rs.37,500/-
Permanent disablement	: Rs.25,000/-,
Future loss of earning	: Rs.40,000/-

Total	: Rs.2,00,000/-

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

3. The learned counsel for the appellant submitted that the percentage of disability fixed at 25% is on the higher side and, the same needs to be refixed and the compensation awarded has to be proportionately reduced.

4. This Court gave its anxious consideration to the contentions advanced by the learned counsel for the appellant and also perused the materials available on record as also the findings rendered by the Tribunal.

5. A perusal of the award would go to show that the following parameters have been taken into account in assessing the quantum of compensation.

6. The Doctor, who has examined the claimant, has certified that the disablement suffered by the claimant is permanent and has assessed the percentage of disability at 25%. Though the Tribunal has quantified the compensation at Rs.2,00,000/-, however while passing the award, the Tribunal has not itemized the heads under which the compensation are to be paid. Though under certain heads the Tribunal has awarded compensation, however, cumulatively, the Tribunal has awarded a sum of Rs.60,000/- as compensation under the head compensation on account of injuries. No compensation under the individual heads such as pain and suffering, loss of enjoyment of amenities, etc., has been awarded. Though an amount of Rs.25,000/- has been awarded under the head permanent disablement, however, the impact the said permanent disablement would have on the earning capacity of the claimant has not been considered by the Tribunal in its proper perspective.

7. A perusal of the evidence of the doctor discloses that there had been a fracture in the left ankle, but because of stiffness of the muscles, there is restriction in the movement and therefore, the disablement is fixed at 25%. Out of three injuries sustained, one has been described as grievous injury. Definitely the injuries suffered by the claimant have resulted in much pain and suffering and that the restriction in movement would definitely would have impact in the enjoyment of amenities by the claimant in his future life. Therefore, this Court is of the considered view that the amount of Rs.60,000/= awarded under the head compensation on account of injuries would need to split into half and awarded under the heads pain and suffering and loss of enjoyment of amenities. Accordingly, a sum of Rs.30,000/- each is awarded under the heads pain and suffering and loss of enjoyment of amenities.

8. The compensation awarded towards medical expenses are supported by bills, which are marked as Ex.A-4 and, therefore, the same is confirmed. Likewise, the compensation awarded under the various other heads are also just and reasonable compensation and cannot be said to be excessive or unreasonable.

9. Though it is the contention of the learned counsel for the appellant that the compensation awarded is excessive, however, considering the fact that the award has been passed in the year 2005 and that more than a decade had passed in between, in the present day scenario, the said award cannot be said to be unreasonable or excessive. Accordingly, this Court, keeping in mind the injuries sustained by the claimant and the disability that has occurred on account of the said injuries and the treatment undergone by the claimant is of the considered view that no interference is called for with the compensation awarded by the Tribunal. Accordingly, the award passed by the Tribunal is confirmed.

10. In the result, there being no merits, this Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is 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, if any, already deposited, 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 claimant through RTGS within a period of two weeks thereafter.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vsi2/GLN

To

1. Motor Accidents Claims Tribunal, Sub Court, Krishnagiri.
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

3.The National Insurance Company Ltd.,
Branch Office,
Krishnagiri Town

C.M.A.No.2693 of 2017

rk(co)
nr 13/03/2018