

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.751 of 2017

National Insurance Company Ltd.,
North Usman Road,
T.Nagar, Chennai – 17.

... Appellant / 2nd respondent

versus

1. Michale Raj

... 1st respondent / petitioner

2. Aniraudha Chakraverthy

... 2nd respondent/1st respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.01.2014 made in M.C.O.P.No.343 of 2011 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Tiruvallur at Poonamallee.

For Appellant :

For Respondent :

JUDGMENT

The claimant Michale Raj filed a claim petition in M.C.O.P.No.343 of 2011 on the file of the Motor Accident Claims Tribunal (II Additional District Court), Tiruvallur at Poonamallee, claiming compensation of Rs.20,00,000/-, in respect of injuries sustained by him.

2. The Tribunal, by award dated 31.01.2014, has awarded a sum of

Rs.18,38,090/-, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation read as follows:

Pecuniary loss	-	Rs. 12,24,000/-
Medical bills	-	Rs. 4,89,090/-
Compensation of pain and sufferings	-	Rs. 50,000/-
Loss of transport expenses	-	Rs. 25,000/-
Loss of extra nourishment	-	Rs. 25,000/-
Loss of comfort and amenities	-	Rs. 50,000/-
Total	-	<u>Rs. 18,38,090/-</u>

The total amount comes to Rs.18,63,090/-, but the Tribunal has mistakenly calculated the amount at Rs.18,38,090/-.

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

4. The claimant has suffered the disability at 100%. The medical expense itself is roughly at Rs.5,00,000/- (Rs.4,87,092/-), which is supported by medical bills. Giving a finding that the claimant is neither the income tax assessee nor the sales tax assessee, the income has been taken only at Rs.6,000/- p.m. and adopting the multiplier of '17', the loss of earning has been estimated at Rs.12,24,000/-.

5. The evidence of P.W.2 would be helpful to understand the nature of the disability and the percentage of disability, which reads as follows:

“Sustained injury to surgical spine with **dislocation C6 over C7 with facet-locking with quadriplegia** he was treated surgically on cervical spine injury due to unstable nature of the cervical injury **fixation for the spine with screws fixed C6 and C7** patient after treatment developed muscle power 0/5 to 3/5 in the upper and the lower limb at present he has **stiffness of the whole body below the nipple on both chest at level of C7**, he has urine drainage by canter with uncontrollable motion not able to stand or do any activity standing **he is on wheel chair** he has during the course of treatment **SPC done for bladder at present he is on chatter bag** his further life is on wheel chair only. **No activity possible – schedule injury**”.

6. Considering the nature of spine injury that too at the age of 21 years, making the claimant immobile and thus a total and complete dependent on the members of the family with loss of marriage prospects the award of compensation cannot be said to be excessive. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 31.01.2014 made in M.C.O.P.No.343 of 2011 by the Motor Accident Claims Tribunal (II Additional District Court), Tiruvallur at Poonamallee.

7. The Insurance Company is directed to deposit the entire amount of

compensation payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the same. No costs.

23.02.2017

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To

1. The Motor Accident Claims Tribunal
(II Additional District Court),
Tiruvallur at Poonamallee.

Dr.S.VIMALA, J.

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