

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 27.02.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA
C.M.A.No.838 of 2017
and C.M.P.No.4249 of 2017

New India Assurance Co. Ltd.
No.5, K.V.Chambers III Floor,
482, 483, Cross Cut Road,
Gandhipuram, Coimbatore.

... Appellant/3rd Respondent

Vs.

1.B.Kalaiselvi ...Respondent/Petitioner
2.J.Kesavan
3.D.Jaganathan ... Respondents/1st & 2nd Respondents
[2nd respondent and 3rd respondent were
set ex parte before the lower court]

Prayer: Civil Miscellaneous Appeal preferred under Section
173 of the Motor Vehicles Act, 1988, against the judgment and
decree dated 29.11.2005 made in MACT.O.P.No.167 of 2005 on the
file of the Motor Accident Claims Tribunal, [III Additional
Sub Court], Coimbatore.

For Appellant : Mr.S.Jayasankar
R1 : No appearance
R2 & R3 : Exparte

J U D G M E N T

The claimant, Kalaiselvi, aged 17 years, a school
student, met with an accident on 27.06.2004, in which she
sustained injuries. Therefore, she filed a claim petition
claiming compensation in a sum of Rs.3,00,000/- as
compensation.

2.The Tribunal, on a consideration of oral and
documentary evidence, awarded compensation in a sum of
Rs.1,53,540/- under the following heads :

i. Disability	Rs.20,800/-
ii.Future Medical expenses	Rs.20,000/-
iii.Medical expenses	Rs.43,740/-
iv.Pain and suffering	Rs.25,000/-
v. Mental agony	Rs.15,000/-
vi.Nourishment	Rs. 3,000/-
vii.Transport expenses	Rs. 500/-
viii.Damages to articles	Rs. 500/-
ix.Loss of happiness & future prospects	Rs.25,000/-

Total Rs.1,53,540/-

Challenging the award as excessive, the Insurance Company has filed this appeal.

3.Learned counsel appearing for the appellant contended that the Tribunal should not have relied upon the evidence of Doctor in order to assess the percentage of disablement. It is further submitted that the Tribunal erred in fixing the disability at 23.8% and the award of a sum of Rs.20,800/- towards disability is excessive.

4.Though very many grounds have been raised in the appeal assailing the order of the Tribunal, however, at the time of argument, learned counsel appearing for the appellant restricted his argument only insofar as the quantum of compensation awarded by the Tribunal and, therefore, this Court is dealing only with the said issue pertaining to quantum of compensation.

5.In order to appreciate the contentions advanced above, it is necessary to have a perusal of the details of the injuries and the period of treatment undergone by the claimant. It is also to be pointed out that the claimant is said to be a school going student and whether this disability would affect her future life.

6.At the time of accident, the claimant was aged 17 years and she suffered multiple injuries all over the body. Taking into account the injuries sustained by the claimant and the difficulties faced by the claimant in discharging her day-to-day activities and also the impact of the injuries on the future life of the claimant, the Tribunal has awarded a sum of Rs.25,000/- towards pain and suffering and Rs.15,000/- towards mental agony. On the basis of medical opinion, the Tribunal has analysed the evidence and fixed the disability at 23.8%, and has awarded compensation of Rs.20,800/- which cannot be said to be on the higher side. The said approach of the Tribunal, in the considered opinion of this Court, cannot be found fault with.

7.Insofar as the award under the other heads are concerned, a careful perusal of the award reveals that the Tribunal has conservatively awarded compensation, which are just and reasonable and cannot be termed to be excessive.

8.For the reasons aforesaid, there being no merits in the appeal, it is liable to be dismissed. Accordingly, the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

9.The appellant/Insurance Company is directed to deposit the entire award amount along with interest at 7.5% per annum from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of the claim

petition, 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/first respondent through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

gya/GLN

To
1.Motor Accident Claims Tribunal,
[III Additional Sub Court], Coimbatore.

2.The Section Officer,
V.R.Section, High Court,
Madras.(2 copies)

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MR(CO)
sm:19.3.2018