

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.06.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1062 of 2007
& M.P.No.1 of 2007

The National Insurance Co. Ltd.,
165 Nethaji Road, Manjakuppam,
Cuddalore ... Appellant/2nd Respondent

..vs..

1. Selvakumar ...1st Respondent/Petitioner
2. Selvarasu ...2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 30.10.2006 made in M.C.O.P.No.190 of 2005 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Cuddalore.

For Appellant : Mr. S.Vadivel
For Respondents : No Appearance.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation awarded by the Claims Tribunal.

2. In respect of an accident that took place on 29.10.2004 at about 07.00 am at Cuddalore Panruti Main Road, near Kalinjikuppam Cross Road, the injured, Selvakumar (first respondent herein) has filed a petition for compensation for a sum of Rs.5,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.1,33,400/- as total compensation. Against which, the Insurance Company has filed the Appeal.

3. The Tribunal, based upon the facts, materials, evidence and also based upon the dictum laid down in the decision of the Supreme Court, reported in 2004 (1) TNMAC 450 (New India Assurance Co. Ltd, Karur v. R.Loganathan and others) has calculated the loss of income at Rs.1,22,400/-, by taking into account the annual loss of income at Rs.24,000/-, adopting the multiplier of '17' and percentage of disability at 30%. Further, Medical Expenses, pain and sufferings and loss of income during treatment period have been estimated at Rs.6,000/-, Rs.5,000/- and Rs.7,200/-. Thus, the total

compensation was estimated at Rs.1,33,400/-.

4. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below. Further, the grounds taken by the Insurance Company on the point of liability cannot be raised at this stage and therefore, it cannot be accepted at this distant point of time. That apart, the Tribunal has not awarded any sum towards extra nourishment, cost of attendant, medical expenses and loss of enjoyment of amenities. Therefore, the grounds raised by the Insurance Company are liable to be rejected and they are rejected accordingly. The compensation awarded by the Tribunal is just, fair and reasonable.

5. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, 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 deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, forthwith, through RTGS. Consequently, the connected MP is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srk

To

1. Motor Accident Claims Tribunal,
Principal Sub Court, Cuddalore.

2. The Section Officer,

V.R.Section,
Madras High Court, Chennai 104

+1 cc to M/s.S.Vadivel Advocate sr48348

C.M.A.No.1062 of 2007
& MP No.1 of 2007

cp(co)
aa25/10/2019