

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2138 of 2004
& CMP No.12570 of 2004

The National Insurance Company Limited,
Division - I, First Floor,
No.66 Gream Road, Chennai - 6 ... Appellant/2nd Respondent

...vs...

1. S.Rajesh ...1st Respondent / Claimant

2. N.Ganapathy ...2nd Respondent / 1st Respondent

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the decree and Judgment, dated 24.09.2003, made in
M.C.O.P.No.805 of 1998 on the file of the Motor Accident Claims
Tribunal, Sub Court, Kancheepuram.

For Appellant : Mr. D.Bhaskaran

For Respondents : No Appearance.

J U D G M E N T

This Appeal has been filed by the Insurance Company,
challenging the quantum of compensation, as exorbitant.

2. The claimant, aged 21, a Diploma Holder in Leather
Technology, who received an order from Guindy Institute of
Technical Services to join the Course of Foot Wear Technology,
met with an accident on 16.11.1998. This accident had happened,
while the claimant was travelling in a bicycle, which was hit by
a first respondent's lorry, from backside.

3. The claimant/injured was, at first given first-aid
treatment at DKK Hospital, Kancheepuram and then referred to
Ramachandira Medical College and Hospital, Porur, Chennai and he
underwent an operation in his head on 19.11.1998 and he was an
in-patient there till 30.11.1998 and subsequently taken
treatment as outpatient.

4. The Tribunal, on a consideration of the materials, has awarded a sum of Rs.3,20,000/-, as compensation as against the claim of Rs.5,00,000/-. Challenging the quantum of compensation as disproportionate to the injuries suffered by the claimant, the Insurance Company has filed this Appeal.

5. The main contentions raised by the learned counsel for the appellant / Insurance Company are that the Tribunal has erroneously awarded a sum of Rs.50,000/- for the head injuries separately when the doctor who was examined as P.W.3 deposed that the claimant has suffered no neuro problems due to head injuries; the Tribunal has erroneously awarded a sum of Rs.30,000/- towards medical expenses, when the claimant / P.W.1, in his evidence, admitted Rs.20,500/- only towards medical expenses and the amount of Rs.2,00,000/- awarded towards loss of earning power is on the higher side.

6. The contentions raised require examination on the parameters based on which the Tribunal has passed the award.

7. The Tribunal has relied upon the evidence of the claimant as well as the Doctors, who certified the disablement at 40%. The claimant has taken treatment at Ramachandira Medical College and Hospital, Porur, where surgery has been performed in the front head of the claimant. Apart from that, surgery has been performed for the contusions / haemorrhage in the brain.

8. On account of those disablements, it is the case of the claimant that there is total loss of memory and the claimant has continuously been in medication for the purpose of avoiding fits.

9. When it is stated that the claimant is suffering from loss of memory and that he is likely to be the victim of the fits, nobody can expect that he can go outside and earn money. In such circumstances, the Tribunal has accepted the evidence of the Doctors that the claimant suffered disablement of 40% and has chosen to award a consolidated sum of Rs.2,40,000/- towards the loss of future earnings and permanent disability.

10. Added to the above, Exs.P-2 to P-33-Medical Bills marked before the Tribunal between 30.11.1998 and 28.04.2000 (pertaining to claimant) issued by the Ramachandira Medical College and Hospital would establish that medical expenses were occurring to the claimant time and again. Considering the nature of injury, period of treatment and the nature of sufferings by the claimant, the Tribunal has awarded a sum of Rs.30,000/- and Rs.50,000/- towards medical expenses and grievous injury, respectively.

11. This Court is of the view that the award passed by the Claims Tribunal under each and every head is reasonable and commensurate with the injuries sustained and expenses incurred by the claimant.

12. In view of the above, the Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed. The appellant / Insurance company is directed to deposit the compensation, interests and costs amount, as awarded by the Claims Tribunal, from the date of petition till the date of deposit, 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 to the Savings Bank Account of the claimant / first respondent herein, through RTGS. No costs. Consequently, the connected CMP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srk

To

1.Motor Accident Claims Tribunal, Sub Court, Kancheepuram.

2.The Section Officer,V.R.Section, Madras High Court, Chennai 104

+1 cc to Mr.D.Bhaskaran, Advocate, S.R.No.44814

C.M.A.No.2138 of 2004
& CMP No.12570 of 2004

VBA (CO)
SSM(30/09/2019).

सत्यमेव जयते

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