

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2357 of 2006
& M.P.No.2 of 2006

United India Insurance Co. Ltd.,
Branch office,
P.B.No.37 Vaniya Puragate Buildings,
Taluk Office Junction, Kollam 691 001
Kerala

... Appellant

..VS..

1. S.Damodaran
2. Vijayakumar
3. George Thomas

... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 17.02.2005 made in M.C.O.P.No.433 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Coimbatore.

For Appellant : Mr. N.Vijayaraghavan
For Respondents : No Appearance.

J U D G M E N T

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

2. In respect of the injuries sustained by him in an accident that took place on 27.05.2000 at about 02.45 pm at Therkkupalayam, the injured, 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.2,31,220/- as total compensation. Aggrieved over the same, the Insurance Company has filed the Appeal.

3. The Tribunal, based upon the facts, materials and evidence has calculated the loss of income at Rs.1,81,740/-, by taking into account the annual loss of income at Rs.1,39,800/-, adopting the multiplier of '13' and percentage of disability at 10%. Further, Medical Expenses, Transport Expenses and Extra Nourishment have been estimated at Rs.1,000/-, Rs.500/- and Rs.500/-, respectively. Further more, the Tribunal has calculated the loss of earning during treatment period, pain and sufferings and mental agony at Rs.37,480/-, Rs.5,000/- and Rs.5,000/- respectively. Thus, the total compensation was estimated at Rs.2,31,220/-.

4. This Court is of the opinion that the compensation awarded under each and every 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 amount towards future 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. Even assuming that the amount of compensation is lightly higher, considering that the award was of the year 2005, the award has now become inadequate considering the lapse of time and the value of money during this time, i.e., (the prices of the commodities have escalated and the value of the money has reduced), the award to be utilized in the year 2019 cannot be said to be excessive.

6. 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, through RTGS, within one week thereafter. Consequently, the connected MP is closed.

21.06.2019

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To

1. Motor Accident Claims Tribunal, Principal Sub Court, Cuddalore.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

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R.MAHADEVAN, J.,

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& MP No.2 of 2006

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