

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

CIVIL MISCELLANEOUS APPEAL NO.2403 OF 2006

AND

M.P.NO.1 OF 2006

The New India Insurance Co.Ltd.,
Coonoor

... Appellant/2nd Respondent

...vs...

1. Hanifa ... 1st Respondent/Claimant
2. T.Jacob 2nd Respondent/1st Respondent
(Remained exparte before
the Tribunal)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 05.09.2005 made in M.C.O.P.No.114 of 2005 on the file of the Motor Vehicles Accident Claims Tribunal, and (Fast Track Court No.II), Gobichettipalayam.

For Appellant : Mr.S.Ramalingam
For Respondents : Mr.Ma.P.Thangavel, for R-1.
No Appearance, for R-2.

JUDGMENT

In respect of the claim petition filed by one Hanifa, in M.C.O.P.No.211 of 2004 for a sum of Rs.3,00,000/-, an award has been passed for a sum of Rs.1,06,100/-. Challenging the same, this Appeal has been filed by the Insurance Company.

2. It is represented by the learned counsel appearing for the appellant/Insurance Company that the amount of compensation, as determined by the Claims Tribunal, has been already deposited before the Tribunal, out of which, 50% has been withdrawn by the claimant/first respondent herein.

3. In respect of claim filed in the said MCOP, the award has been passed under the following two heads:-

Loss of income (Rs.3,300/- x 17)	-	Rs. 56,100.00
Pain and sufferings	-	Rs. 50,000.00

		Rs.1,06,100.00

4. This said award has been passed by the Tribunal based on the evidence of the claimant and Doctor-P.W.2. Nothing has been pointed out showing which part of the award is excessive. The Tribunal has stated that the claimant has sustained multiple injuries all over the body. Under the circumstances, the award passed by the Claims Tribunal cannot be said to be excessive or disproportionate.

5. Till this appeal is taken up for hearing there is no appeal by the claimants. Had this appeal been taken up at the earliest point of time, there is scope for enhancement also even in the absence of an independent appeal or cross-appeal. After lapse of decades, especially when the appeal filed by the Insurance Company is pending, it may not be appropriate to enhance the quantum of compensation awarded.

6. In such view of the matter and also considering the fact that 50% of the compensation amount, as awarded by the Claims Tribunal, has been withdrawn by the claimant long back, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected MP is also dismissed. The Tribunal is directed to transfer the amount lying in Court deposit to the Savings Bank Account of the claimant/injured/first respondent herein, forthwith, through RTGS.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Vehicles Accident Claims Tribunal and,
Fast Track Court No.II, Gobichettipalayam.
2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.49753

+1cc to Mr.S.Ramalingam, Advocate, S.R.No.49519

C.M.A.No.2403 of 2006
& M.P.No.1 of 2006

PP(CO)
CS/23/07/2020