

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.39 of 2007
& M.P.No.1 of 2007

New India Assurance Co. Ltd.,
Rep. by its Branch Manager,
New Hospital Road,
Gobi Town, Gobi Taluk ... Appellant/4th Respondent

...vs...

1. Jeeva Albert ...1st Respondent/Petitioner
2. A.Parameswaramoorthy
3. Appachi Gounder
4. Branch Manager, State Bank of India,
Main Road, Thokanaicken Palayam Village,
Gaspa, Gobi Taluk ...2 to 4 Respondent/1 to 3 Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 31.01.2006 made in M.C.O.P.No.12 of 2005 on the file of the Motor Accident Claims Tribunal, II Subordinate Court, Gobi.

For Appellant : No Appearance.

For Respondents : No Appearance.

J U D G M E N T

Despite several opportunities granted, neither the appellant nor the respondents were present. Hence, the appeal is taken up on merits.

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

3. In respect of an accident that took place on 11.10.2004 at about 07.30 pm at Johiyur Road, near 3rd cut nehru street, the injured, Jeeva Albert (first respondent herein) has filed a petition for compensation for a sum of Rs.7,11,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.1,03,000/- as total compensation. Against which, the Insurance Company has filed the Appeal.

4. The Tribunal, based upon the facts, materials and evidence has calculated the loss of income at Rs.96,000/-, by taking into account the percentage of disability at 10%. Further, extra nourishment and pain and sufferings have been estimated at Rs.2,000/- and Rs.5,000/- respectively. Thus, the total compensation was estimated at Rs.1,03,000/-.

5. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are fair, just, 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 quantum of compensation 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 medical expenses, attendant charges and loss of expectation of life (shortening of normal longevity). If the amounts are awarded under those heads, the compensation cannot be said to be more and in fact, less. Therefore, the grounds raised by the Insurance Company are liable to be rejected and they are rejected accordingly.

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, forthwith, through RTGS. Consequently, the connected MP is closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal, II Subordinate Court, Gobi.

Copy to

The Section Officer, V.R.Section,

Madras High Court, Chennai 104

+2 CCS to Mr.K. Chandra Mohan, Advocate sr 52409

C.M.A.No.39 of 2007

& MP No.1 of 2007

CA(CO)

SP(25/09/2019)