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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.912 of 2007 and
M.P.No.2 of 2007

M/s.The United India Insurance Company Ltd.,
Nethaji Road, Cuddalore. Appellant/2nd Respondent

Vs.

1. Thirunarayanan
2. M/s.Sri Nidhi & Co,
No.12, Kennedy Street,
Karaikkal. Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 15.02.2005 made in MCOP No.506 of 2003 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge) at Cuddalore.

For Appellant : M/s.N.Mala

J U D G M E N T

This appeal is directed against the judgement and decree made in MCOP No.506 of 2003, dated 15.02.2005 on the file of the Motor Accidents claims Tribunal (Principal Subordinate Judge), Cuddalore.

2. R.Thirunarayanan, aged 27, employed as Supervisor in Rohini Fire Chem, Chennai, earning a sum of Rs.10,000/- per month, met with an accident on 13.02.2002 at about 11.20 hrs, while going as a pillion rider in a two-Wheeler, which was driven by his father. The said accident is said to have taken place, when the Ambassador Car bearing Registration No.PY 01 B 1222 came in the opposite direction in a high speed, lost control and dashed against the Scooter. Stating that the claimant suffered grievous injuries and permanently disablement on account of the accident, he has filed a claim petition claiming compensation of Rs.25,00,000/-, with 12% interest per annum, till realisation.



3. The petition was taken by the Tribunal and after framing the issues, examining the witnesses and marking the documents, the Tribunal has assessed the total compensation at Rs.9,29,851/- with the following breakup details:-

Medical Expenses	-	Rs.2,38,144
Transportation Expenses	-	Rs. 21,707
Extra Nourishment	-	Rs. 5,000
Attender Charges	-	Rs. 10,000
Loss of earning during the treatment period	-	Rs. 30,000
Loss of Future earnings on account of permanent disability-		Rs. 3,50,000
Future Medical Expenses	-	Rs. 2,50,000
Pain and Sufferings	-	Rs. 25,000

Total	-	Rs.9,29,851/-

4. Aggrieved against the said quantum, this appeal was preferred by the Appellant/Insurance Company.

5. The learned counsel appearing for the Appellant/Insurance Company submitted that the Tribunal erred in relying on Ex.P17, disability certificate, which shows the claimant's disability at 70%, overlooking the fact that the same was issued after 2½ years from the date of accident. The learned counsel further submitted that the amounts awarded by the Tribunal under each and every heads are high and they need substantial reduction.

6. This Court has considered the said submissions and perused the materials available on record.

7. At the out set, it has to be seen that the Tribunal has taken note of the evidence and the documents produced before it, in an elaborate manner. While dealing with the same, the Tribunal has individually assessed and taken into consideration the veracity and relevancy of the documents. Further, as far as Ex.P17 is concerned, it is admitted by the appellant / second respondent that the same was issued by the Doctor after 2-1/2 years of the date of accident.

8. Normally, the logical inference is that immediately after the accident, the disability or discomfort will be more and after a period of time, the same would get reduced significantly. But, in this case, after 2-1/2 years also, the first respondent's disability was assessed at 70%. Hence, it cannot be permitted to say now that the disability fixed at 70% is high, since after a substantial period of time also, the



disability did not reduce and it is on a high pedestrian.

9. Further, the Tribunal on the basis of the evidence and documentary proof, assessed the quantum under each and every heads in a conventional manner. The heads under which, the compensation awarded by the Tribunal (as narrated supra) would establish a fact that they are awarded based on weight of evidence, probabilities of case and settled principles of law.

10. One important factor to be taken into account in this case is with regard to the non-examination or production of witnesses or documents by the appellant herein. If the appellant is so aggrieved, nothing prompted them from producing any witness or marking documents on their side before the Tribunal. But contrary to that, rebutting pleadings of the claimant, at the appeal stage, cannot be entertained. On this score also, this Court has no other option except to confirm the award of the Tribunal.

11. This Court is of the view that the award passed by the Tribunal is fair, just and reasonable. Further, the grounds raised by the appellant in the appeal are very vague. In such view of the matter, the award passed by the Tribunal on negligence as well as on quantum is confirmed as such.

12. 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, connected MP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To
1. The Principal Sub Judge,
Motor Accident Claims Tribunal , Cuddalore.



Copy to:

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

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vgi(co)
nr 11.12.2019