

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.1069 of 2015

Elumalai

... Appellant/Claimant

vs.

1.Indra

2.Divisional Manager

The Oriental Insurance Company Limited

No.75, Krishna Street,

Tiruvannamalai.

... Respondents 1&2 / Respondents 1&2

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the judgment and decree dated 14.03.2014 made in MACTOP No.26 of 2010 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Tiruvannamalai.

For Appellant : Mr..F.Terry Chellaraja

For Respondents : Mr.S.Manohar
for R2

JUDGMENT

The appeal has been preferred by the claimant against the award of Rs.95,000/- for the injuries sustained by him in the accident occurred on 10.07.2009.

2. Heard Mr.F.Terry Chellaraja, learned counsel appearing for the appellant/claimant and Mr.S.Manohar, learned counsel appearing for the second respondent/insurance company.

3. Mr.F.Terry Chellaraja, learned counsel appearing for the appellant/claimant would submit that the award has been passed against the owner of the vehicle and not against the insurance company and therefore the insurance company should be fastened with liability. He would further submit that the claimant, even though suffered serious injuries in the right hand joint and in the right hand fingers, bone got malunited and the centre finger has become bent leading to sustaining of 35% disability. However, the tribunal awarded only a sum of Rs.70,000/- and therefore he seeks for enhancement and fastening of the liability on the insurance company.

4. On the other hand, Mr.S.Manohar, learned counsel appearing for the second respondent/insurance company opposed the above said contention.

5. A perusal of the record, especially paragraph 3 of the claim petition would reveal that the claimant travelled in a Eicher Lorry alongwith his relatives to attend a function. The Eicher Lorry is not meant for travelling and it is only a goods vehicle and therefore the tribunal, relying upon Ex.R2, RT0 communication rightly came to the conclusion that the claimant has travelled in the goods vehicle which is only meant for carrying goods and if anybody travels in the said vehicle, it would be called as unauthorised passengers. Therefore, the tribunal rightly fastened the liability upon the owner of the vehicle which does not require any interference by this Court.

6. As far as the quantum of compensation is concerned, the tribunal has rightly awarded a sum of Rs.70,000/- for 35% disability sustained by the claimant. Similarly, Rs.10,000/- awarded towards pain & suffering, Rs.10,000/- towards medical expenses and Rs.5,000/- towards extra nourishment are all reasonable. Thus, the amount of Rs.95,000/- awarded by the tribunal alongwith interest @ 7.5% per annum is confirmed and the appeal fails.

7. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

The Principal Sub Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

+lcc to Mr.S. Manohar, Advocate, S.R.No.28398/2015
+lcc to M/s. M.Malar, Advocate, S.R.No.28840

EU(31/08/2015)

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