

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2493 OF 2015
& M.P.NO.1 OF 2015

The New India Assurance Company Ltd.,
No.45, Moor Street, Chennai - 600 001. ..Appellant/2nd
Respondent

Versus

1.R.Raghu Balan
2.Banumathi ..Respondents/1st
Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.04.2015 made in M.C.O.P.No.1100 of 2013 on the file of the Motor Accidents Claims Tribunal [IV Small Causes Court], Chennai.

For Appellant : Mr.R.Neethi Perumal
For Respondent - 1 : Mr.Amar D.Pandiya

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the impugned award passed by the Motor Accidents Claims Tribunal [IV Small Causes Court], Chennai in M.C.O.P.No.1100 of 2013, dated 21.04.2015, holding that the claimant is entitled to receive a compensation of Rs.4,98,000/- on the ground that the injuries suffered by the claimant due to the accident has been adequately proved by the evidence of P.W.3 supported with P.W.8 to P.W.10.

2.On the basis of aforesaid evidence, the Tribunal has fixed the disability in total at 60%, as the victim sustained injuries because of the accident. Considering yet another vital fact that he had earned a sum of Rs.30,000/- per month, as a Machine Operator in Wheels India Limited, supported with pay slips marked as Ex.P10, which also revealed that the victim was absent for a considerable period, finally, the Tribunal has come to the conclusion that for the disability, he should be awarded a compensation of Rs.1,80,000/-; Rs.1,00,000/- for pain and sufferings; for extra nourishment Rs.75,000/-; towards Transport to Hospital Rs.50,000/-, Rs.3,000/-, Rs.40,000/- and Rs.50,000/- towards damages to clothes, attender charges and future medical expenses respectively, allowed the claim.

3.It may be mentioned that when the claimant asked for a sum of Rs.6,00,000/- from the respondents, giving a categorical finding that the driver of the second respondent was under influence of alcohol at the time of accident, therefore, although there was a violation of policy condition, the Tribunal directed the appellant / Insurance Company to pay to the claimant and recover the same from the second respondent.

4.Therefore, this Court is not able to see any merits, as the appellant has got a remedy to recover the same after payment to the injured from the second respondent.

5.The appellant / Transport Corporation fairly submits that at the time of passing the impugned award, the appellant has deposited a sum of Rs.25,000/-. Therefore, the appellant is further directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of M.C.O.P.No.1100 of 2013 on the file of the Motor Accidents Claims Tribunal [IV Small Causes Court], Chennai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit by the Insurance Company, it is for the claimant to move an appropriate application before the Tribunal and release the said amount.

6.In that view of the matter, this Civil Miscellaneous Appeal fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CO)

dt:21/01/2016

True Copy

Sub-Assistant Registrar

sri

To

The Motor Accidents Claims Tribunal
[IV Small Causes Court], Chennai.

+1 cc to Mr.S.RaviKumar Advocate sr.60253

+1 cc to Mr.R.Neethi Perumal Advocate sr.60168

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