

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2867 of 2015

&

MP.No.1 of 2015

The Divisional Manager,
United India Insurance Co. Ltd.,
Udumalpet.

... Appellant/IIInd Respondent

Versus

1.Veerammal
2.Anandhan

... Respondents/Petitioner/
Ist Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 07.12.2012 made in M.C.O.P.No.117/2009 on the file of the Motor Accidents Claims Tribunal, (Sub Court), Udumalpet.

For Appellant : Mr.T.Ravichandran

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/Insurance Company is directed against the correctness of the impugned award dated 07.12.2012 made in M.C.O.P.No.117/2009 on the file of the Motor Accidents Claims Tribunal, (Sub Court), Udumalpet, awarding a sum of Rs.30,000/- with 7.5% interest per annum, as against the claim of Rs.6,00,000/- for the injury sustained by the claimant.

2.According to the claimant/first respondent herein, on 14.02.2008 at about 04.30 p.m., when the claimant was walking on the road side from East to West near Kongalakurichi Mariamman Kovil turning on Udumalpet to Munnar Main Road, after collecting Iron Scrap at Alampalayam along with one Kanniammal, while she was walking on the extreme left side of the road, an Ambassador car bearing Registration No.TMW 0830, driven by its driver cum owner of the car/the second respondent herein, in a rash and negligent manner dashed against the claimant. Due to the sudden impact, the claimant sustained fracture on her left leg thigh,

left leg hip, grievous injury on her head and other multiple injuries all over her body. According to the claimant, immediately after the accident, she was admitted in a Government Hospital at Udumalpet and first aid was given to her. Due to the serious nature of fracture and grievous injuries, she was referred to CMC Hospital at Coimbatore. In the said hospital, several operations were done for the fracture on her left leg thigh and left hip and treatment was given for the other grievous and multiple injuries all over her body, by admitting her as an in-patient for a period of more than one month. Even now she is taking treatment as an out-patient once in a week in the said hospital.

3. After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver cum owner of the car/the second respondent herein and awarded a sum of Rs.30,000/- as compensation payable to the claimant with interest at the rate of 7.5%. Aggrieved by that award, the appellant-Insurance Company has filed the present appeal.

4. Heard Mr. T. Ravichandran, learned counsel for the appellant and perused the document on record. On the side of the claimant, documents Exs. P1 to P4 were marked. No witnesses were examined and no documents were marked on the side of the appellant.

5. Learned counsel appearing for the appellant/Insurance Company, assailing the impugned award passed by the Tribunal, has contended that since on the date of accident, the driver cum owner of the car did not possess fitness certificate to ply on the road, as the same was expired and that he also did not possess driving licence at the time of accident, without considering the crucial aspect, the Tribunal ought not to have shifted the burden on the appellant. Therefore, in the absence to show that the accident had occurred due to the negligent driving of the driver cum owner of the vehicle and as the injury sustained by the claimant was simple in nature, the Tribunal has committed a fundamental mistake in awarding a sum of Rs.25,000/- towards injury, pain and suffering and Rs.5,000/- towards Nutrition. He would submit that the amount awarded by the Tribunal is excessive, exorbitant and also without any basis and justification and that therefore the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

6. Although the contention raised by the learned counsel for the appellant appears to be reasonable, the Tribunal awarded only a meagre amount of compensation namely a sum of Rs.25,000/- towards injury, pain and suffering and a sum of Rs.5,000/- towards nutrition, for the injuries i.e. on the left leg thigh,

left leg hip, grievous injury on her head and other multiple injuries all over her body, sustained by the claimant and hence the award passed by the Tribunal is confirmed, as it does not call for any interference.

7. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

8. Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimant to move a petition before the learned Tribunal for withdrawing of the said amount.

-s/d-
Assistant Registrar (CSVI)

True Copy

Sub-Assistant Registrar

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To

1. Motor Accidents Claims Tribunal,
(Sub Court), Udumalpet

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

+1 cc to Mr. T. Ravichandran Advocate sr.69137

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