

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.2435 of 2010

and

M.P.No.1 of 2010

United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 600 002.

.... Appellant/Respondent-II

vs.

1. T.Sundaram Respondent-I/Petitioner
2. T.N.Krishnan Respondent-II/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 11.02.2010 passed in M.C.O.P.No.350 of 2005 on the file of the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai.

For Appellant : Mr.J.Chandran

For Respondents : Ms.M.Malar - R1

J U D G M E N T

The United India Insurance Co. Ltd. is on appeal challenging the award dated 11.02.2010 passed in M.C.O.P.No.350 of 2005 on the file of the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai.

2. It is a case of injury. On 14.10.2004 at about 23.00 hours, while the injured claimant, T.Sundaram, aged about 50 years, was walking at MTH Road, near Padi Market, a lorry bearing Registration No.TMR 3079 came in a rash and negligent manner and hit against the claimant. As a result, the claimant sustained grievous injuries. Hence, the claimant has filed a claim for compensation in a sum of Rs.1,50,000/-. According to the claimant, he was working as coolie and was earning a sum of Rs.200/- per day.

3. In support of the claim, the claimant was examined as P.W.1 and Dr.Thiagarajan, who had given the disability certificate was examined as P.W.2. Exs.P-1 to P-5 were marked, the details of which are as follows:-

Ex.P-1 is the copy of FIR in Cr.No.633 of 2004

Ex.P-2 is the copy of discharge summary issued by KMC hospital

Ex.P-3 is the x-ray

Ex.P-4 is the x-ray

Ex.P-5 is the disability certificate

On the side of the respondents/appellant herein, The assistant RTO, Chennai (West) was examined as R.W.1 and the Officer of the Insurance Company was examined as R.W.2 and Ex.R.1- the extract from the licence register and Ex.R.2 copy of the insurance policy were marked.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that there was no contra evidence on the side of the appellant herein with regard to the negligence came to conclusion that the accident had occurred only due to the rash and negligent act of the driver of the lorry and consequently fixed the liability on the appellant Insurance Company to compensate the claimant. As the driver of the lorry did not possess the valid driving licence, which was expired, the insurance company has objected to the liability fixed. Hence, the Tribunal directed the insurance company to pay the compensation and recover the same from the owner of the vehicle. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted a sum of Rs.98,500/- as compensation with interest at 7.5% per annum. The Tribunal taking into consideration the age and occupation of the claimant and the loss of income for a period of 5 months, fixed the monthly income at Rs.4,500/-, thereby awarded a sum of Rs.22,500/- towards loss of earning. The Tribunal also awarded a sum of Rs.3,000/- towards transport charges; Rs.2,000/- towards extra nourishment; Rs.3,000/- towards medical expenses; Rs.3,000/- towards attender charges; Rs.20,000/- towards pain and suffering. The Tribunal, taking into consideration the disability at 45%, the age and injuries sustained by the petitioner, awarded a sum of Rs.45,000/- towards disability. Thus, in all, the Tribunal awarded a sum of Rs.98,500/- as compensation with interest at 7.5% per annum.

6. On the face of the award, there appears to be no infirmity in the quantum of compensation granted by the Tribunal and the interest also is not excessive as the accident happened in the year 2004, and

the Tribunal awarded meagre sum towards pain and suffering and transport expenses. Further, considering the age of the claimant and the injuries sustained, i.e, fracture of both bones at left leg, this Court hold that the amount awarded by the Tribunal is just and proper.

7. Finding no merit, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal stands confirmed. It is stated that the appellant had deposited the entire compensation amount and the claimant had withdrawn 50% of the amount in deposit. The claimant is permitted to withdraw the balance amount lying in deposit along with accrued interests and costs, if any. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Registrar,
Small Causes Court,
(Motor Accidents Claims Tribunal)
Chennai.

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

+1 cc to Mr.M.Malar,Advocate (sr.44893)

+1 cc to Mr.J.Chandran, Advocate (sr.45638)

C.M.A.No.2435 of 2010
and

M.P.No.1 of 2010

KJI (co)
cp 06/10/2015

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