

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2015

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THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.3074 of 2009

and

M.P.No.1 of 2009

The Branch Manager,
M/s.New India Assurance Co. Ltd.,
Pondicherry. Appellant/Respondent-II

vs.

1.Tmt.Poongavanam Respondent-I/Petitioner
2.Thiru.Lakshmanan Respondent-II/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 20.12.2004 passed in M.C.O.P.No.4 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Pondicherry.

For Appellant : Mr.J.Chandran

For Respondents : Mr.V.Murali - R1

J U D G M E N T

The New India Assurance Co. Ltd. is on appeal challenging the award dated 20.12.2004 passed in M.C.O.P.No.4 of 2003 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Pondicherry.

2. It is a case of injury. On 13.10.2002 at about 4.30 hours, when the injured claimant, Poongavanam, aged about 50 years along with other persons, were travelling through a tricycle for her business at Pondicherry Grand Bazaar from North to South direction on Mahatma Gandhi Road, near Aurobindi Street

junction, a bus bearing Registration No.PY-01-J-5999 came in a rash and negligent manner without blowing a horn and without observing road rules and hit against the tricycle, resulting in the tricycle swerved and subject to capsize. Due to the said accident, the claimant and others were thrown away on the road and sustained grievous injuries. Hence, the claimant has filed a claim for compensation in a sum of Rs.1,10,000/-. According to the claimant, at the time of accident, she was doing a green grocer business and was earning a sum of Rs.150/- per day.

3. In support of the claim, the claimant was examined as P.W.1 and Dr.Krishnakumar was examined as P.W.2. Exs.P.1 to P.9 were marked. On the side of the respondent/appellant herein, no witnesses were examined and no documents were marked.

4. The Tribunal based on the oral evidence of P.W.1, the F.I.R.-Ex.P.1 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 bus and consequently fixed the liability on the appellant Insurance Company to compensate the claimant. 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 taking into consideration the injury of the claimant and the disability certificate - Ex.P.8, assessed by P.W.2 assessing disability at 37%, granted a sum of Rs.37,000/- towards permanent disability and considering the wound certificate Ex.P.6, granted a sum of Rs.20,000/- towards pain and suffering. Since there was no proof of income, the Tribunal fixed the notional income as per the schedule at Rs.1,250/- per month and awarded a sum of Rs.5,000/- towards loss of income for a period of four months. The Tribunal further awarded a sum of Rs.5,000/- towards, medical expenses, transport expenses and other sundry expenses. Thus, in all a sum of Rs.67,000/- was awarded as compensation with interest at 9% 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 2002, and the Tribunal awarded a consolidated sum

towards medical expenses, transport and other sundry expenses. Further, considering the age of the claimant and the injuries sustained, this Court holds 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. The claimant is permitted to withdraw the entire award amount lying in deposit along with accrued interests and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Subordinate Judge,
(Motor Accidents Claims Tribunal)
Pondicherry.

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

C.M.A.No.3074 of 2009
and
M.P.No.1 of 2009

TEJ(CO)
CA(19/10/2015)

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