

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 2979 of 2008
and
M.P. No.1 of 2008

The National Insurance Company Ltd.,
Mayiladuthurai. ... Appellant/3rd Respondent

vs.

1. Pitchaiammal ... 1st Respondent/Petitioner.
2. Ravi
3. Samikannu
(Respondents 2 & 3 exparte in
Lower Court) ... Respondents 2 & 3/Respondents 1 & 2.

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment made in M.C.O.P No.83 of 1997 dated 14.08.2000 on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Court), Mayiladuthurai.

For appellant : Mr. N. Vijayaraghavan
For respondents : No Appearance for R1
R2 & R3 exparte

JUDGMENT

The third respondent Insurer before the Tribunal is the appellant herein. In spite of due service of notice, the respondents failed to appear before this Court, either in person or through counsel.

2. The present appeal is filed against the award of compensation of Rs.50,000/- payable with interest at the rate of 12% per annum to the claimant injured, for the injuries sustained and the sufferings undergone by her in the accident occurred, due to rash and negligent driving of the first respondent driver of the tractor, belonging to the second respondent, insured with the third respondent.

3. The appeal is filed against the award of compensation, questioning the liability and quantum, particularly award of interest of 12% per annum, by the Tribunal. Learned counsel for the appellant would also contend before this Court, that the offending vehicle was not insured with the appellant insurance company on the date of accident and hence the owner of the vehicle and not the third respondent insurance company, is alone liable to pay the compensation to the petitioner claimant. Regarding the objection raised against the liability fixed on the Insurer, no such plea was raised before the Tribunal and such plea is sought to be raised for the first time before this Court and is hence not entertained. Regarding the quantum, the main attack is against the award of interest at the rate of 12% per annum. According to the learned counsel for the appellant, the prevailing rate of interest at that time was 9% and not 12% and that 12% rate of interest is highly excessive and calls for modification.

4. In view of such submission, the interest rate is reduced from 12% to 9% by this Court. The award passed by the Tribunal is confirmed in other aspects.

5. In the result, the Insurance Company is directed to deposit the entire compensation amount, with interest at 9% per annum, within four weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents/claimants are permitted to withdraw the entire award amount, with the accrued interest, on due application. The excess amount, if any already deposited, is directed to be refunded to the Insurer on due application. The Civil Miscellaneous Appeal is accordingly ordered. Consequently, connected M.P is closed. No costs.

avr

-s/d-

Assistant Registrar(IV)

True Copy

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal
Additional Subordinate Court, Mayiladuthurai.

+ 1 cc to Mr.N.Vijayaraghavan, Advocate SR 40730

mp(co)
prk8/12

C.M.A. No. 2979 of 2008 and
M.P. No.1 of 2008



सत्यमेव जयते

WEB COPY