



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

CMA No.46 of 2006
and
CMP No.170 of 2006

The New India Assurance Co.Ltd.,
Divisional Office
Ram Complex
29, Paramathi Road
Namakkal Town and District.

...Appellant/2nd Respondent

vs

1. Prabhu

...Petitioner

2. S.Subramanian
[R-2 set exparte before
the lower court]

...Respondents/1st Respondent

Appeal against the judgment and decree dated 27.08.2004 passed by the learned Additional District Judge, Fast Track Court No.3, [Motor Accident Claims Tribunal], Namakkal in MCOP No.598 of 2003.

For Appellant : Mr.G.Munirathnam

For Respondent : Mr.Ma.P.Thangavel for R1

J U D G M E N T

The New India Assurance Company Limited is the appellant.

2. The claimant/first respondent, who sustained grievous injuries in a road accident that took place on 26.01.2003 has filed a claim petition before the Court below claiming a compensation in a sum of Rs.5,00,000/-. The Tribunal, on appreciation of oral and documentary evidence, passed an award for a sum of Rs.71,000/- with interest at the rate of 9% per



annum from the date of petition till the date of deposit. Questioning the liability and the quantum, the present appeal has been filed by the Insurance Company.

3. Heard both sides.

4. The learned counsel appearing for the appellant/Insurance Company submitted that the Tribunal had not considered the fact that the claimant was not hit by the lorry and only by the motor cycle. Further, he would submit that no Police Officer was examined to prove negligence and the involvement of the vehicle. In such circumstances, awarding a sum of Rs.71,000/- as compensation is erroneous. Accordingly, he would pray for setting aside the same.

5. Learned counsel for the first respondent/claimant would submit that due to the accident, the claimant's left leg got fractured and plate also has been fixed. Therefore, the Tribunal after considering the entire oral and documentary evidence available on record awarded only a meagre sum of Rs.71,000/- as compensation for the injuries sustained by the claimant. Accordingly, he would pray for dismissing the Civil Miscellaneous Appeal.

6. Perused the records.

7. On a perusal of the judgment passed by the Tribunal, it is seen that the claimant has suffered a fracture injury due to the accident and the involvement of the vehicle in the accident is also proved. Further, it is very clear from the evidence that the lorry first hit the two wheeler and then the two wheeler hit the passerby, viz., the claimant, who sustained serious injuries. Since no contra evidence has been proved by the Insurance Company, the Tribunal came to the conclusion that the accident has been proved. Accordingly, awarded only a meagre sum of Rs.71,000/- as compensation for the injury sustained by the claimant. Further, the claimant has also not filed any appeal seeking enhancement of the compensation. In view of the same, I do not find any reason to interfere with the reasoned order passed by the Court below.

8. It is submitted by the appellant-Insurance Company that the entire award amount has already been deposited. In view of the said submission, the first respondent/claimant is entitled to withdraw the entire compensation amount along with interest



on making out a proper application before the court below.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vj2

To

The Additional District Judge
Fast Track Court No.3,
[Motor Accident Claims Tribunal]
Namakkal

Copy to

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

1 CC to Mr.Ma.P.Thangavel, Advocate SR.No. 53875

1 CC to Mr.G.Munirathnam, Advocate SR.No. 53894

CMA NO.46 of 2006

JSV (CO)
PSI (27.11.2015)