

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/4/2016

C O R A M

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.849 of 2016

Reliance General Insurance Company Limited

No.1 Dhanam Towers

I Floor, Binny Main Road

Park Road

Tirupur 641 601.

...Appellant/3rd Respondent

Vs

1. M. Velmurugan ...1st Respondent/Petitioner

2. N. Ayyappan ...2nd Respondent/1st Respondent

3. Poppular Marketing,
Kumar Nagar, Kadhi Complex,
Tirupur 641 603. ...3rd Respondents/2nd Respondent

Appeal filed under Section 173 of the Motor vehicles Act, 1988 against the judgment and decree passed in M.A.C.T.O.P.No.105/2013 dated 3/4/2014 on the file of Motor Accident Claims Tribunal, II Additional District Judge, Tirupur.

For appellants ... Mr.K.Moorthy

For respondents ... Mr.Ma.Pa.Thangavel
for R.1.

सत्यमेव जयते
O R D E R

The Reliance General Insurance Company Limited has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, II Additional District Judge, Tirupur in M.A.C.T.O.P.No.105 of 2013.

2. On 1/4/2012, at about 15.30 hours, when the first respondent herein was riding his TVS XL Super Heavy Duty Moped bearing Registration No.TN39-AT-9461, near Abirami Theatre, Boyampalayam, the second respondent herein drove the auto bearing Registration No.TN39AL-7044 in a rash and negligent manner dashed against the vehicle of the first respondent herein, as a result of which the first respondent herein had

sustained multiple grievous injuries all over the body. Immediately, he was taken to Government Hospital, Tirupur and then admitted in Revathi Hospital, Tirupur and took treatment as an inpatient for fifteen days and still he is taking treatment as outpatient. The first respondent herein had filed a claim petition before the Tribunal seeking compensation of a sum of Rs.15,00,000/-.

3. The Tribunal, based on the oral and documentary evidence, granted the following amounts as compensation with interest at 7.5% p.a.

S.No.	Head	Amount awarded by the Tribunal
1.	Loss of Income 7,500/- x 12 x 40% x 16	Rs.5,76,000/-
2.	Pain & Suffering	Rs. 30,000/-
3.	Medical expenses	Rs. 63,665/-
4.	Transport to Hospital	Rs. 10,000/-
5.	Extra Nourishment	Rs. 15,000/-
	T O T A L	Rs.6,94,665/-

4. The learned counsel appearing for the appellant would submit that the Tribunal has failed to implead the insurance company of the two wheeler. The Tribunal has fixed the disability at 40% based on Ex.A.7. The learned counsel appearing for the Insurance Company would further submit that the first respondent herein/petitioner was not having a license to drive the two wheeler and further the first respondent herein has to prove that LMV goods vehicle bearing Registration No.TN39AL-7044 was insured with the appellant herein/third respondent. Based on these, the learned counsel appearing for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

5. This Court heard the submissions made by the learned counsel appearing for the appellant and perused the materials available on record.

6. Based on the evidence available before it, the Tribunal has come to the conclusion that the vehicle in question has caused the accident due to the rash and negligent driving of its driver. Non-impleading of the Insurance Company in which the two-wheeler has got insured is not going to help the appellant herein and that the appellant/Insurance Company is rightly fastened with the liability to compensate the claimant.

7. The Honourable Apex Court, in the judgment rendered in

Syed Sadiq Vs. Divisional Manager, United India Insurance Co. Ltd., reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6,500/- as the monthly income. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2012, I am of the opinion that the Tribunal has not committed any error in taking the monthly income of the first respondent herein as Rs.7,500/- p.m., and I find that the quantum of compensation determined by the Tribunal need not be interfered with.

8. In the above circumstances, finding no merit, by confirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant herein is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.105 of 2013 on the file of the Motor Accident Claims tribunal, II Additional District Judge, Tirupur, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimant is entitled to withdraw the same by filing necessary application before the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mvs.

TO

1. The II Additional District Judge, Tirupur.

Copy to: Reliance General Insurance Company Limited
No.1 Dhanam Towers I Floor, Binny Main Road Park Road
Tirupur 641 601.

+ 1 cc to Mr.Ma.Pa.Thangavel, Advocate SR NO 23639[11/7/16]

C.M.A.No.849 of 2016

RSK(CO)

Eu 23.06.16