

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.Nos.1380 to 1383 of 2004

1.K.Selvaraj
2.National Insurance Co. Ltd.,
Salem Branch Office - II,
Maruti Complex,
F-215, Omalur Main Road,
Swarnapuri, Salem - 4. ... Appellants in all
the appeals/Respondents 1 & 2

Versus

T.Rajeswari ... Respondent in
C.M.A.No.1380 of 2004/Petitioner
K.Maheswari ... Respondent in
C.M.A.No.1381 of 2004/Petitioner
P.Sabitha ... Respondent in
C.M.A. No.1382 of 2004/Petitioner
N.Ramamurthy ... Respondent in
C.M.A. No.1383 of 2004/Petitioner

Prayer in C.M.A.Nos.1380 to 1383 of 2004: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P. Nos.1245,1246, 1247 and 1290 of 2000, dated 07.10.2002 on the file of the Motor Accidents Claims Tribunal, Addl. District Court, Fast Track Court - II, Salem respectively.

Appellants : Mr.N.Vijayaraghavan
in all the appeals
Respondents : Mr.K.Kuppusamy
in all the appeals

COMMON JUDGEMENT

The first appellant in all these Civil Miscellaneous Appeals by name K. Selvaraj was arrayed as 1st respondent and the Insurance company was arrayed as second respondent in M.C.O.P. Nos.1245, 1246, 1247 & 1290 of 2000 on the file of Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court - II, Salem respectively. All the above original petitions have been filed by the respective respondents herein, as claimants.

2. The original petitions have been filed by contending that on 28.06.2000 at 3.00 A.M., when the respondents herein were travelling in a bus bearing Registration No.TN-27-J-3663, due to rash and negligent driving of the driver of the bus, it

colluded with a lorry and met with an accident near Vikravandi. In the impact all the respondents sustained multiple injuries, which are set out in the respective claim petitions. For the injuries sustained by the respondents herein in the accident, they have filed the respective claim petitions, claiming compensation of Rs.3,00,000/- Rs.3,00,000/-, Rs.1,50,000/- and Rs.1,00,000/- respectively. The Insurance company opposed the claim petition by filing a counter. The Tribunal upon appreciation of the evidence adduced before it has awarded a sum of Rs.2,48,003/-, Rs.1,50,559/-, Rs.84,740/- and Rs.19,373/- respectively in favour of the respondents. The award amount was directed to be paid by the appellants herein jointly and severally. Aggrieved by the same, the appellants herein have come up with these Civil Miscellaneous Appeal contending that the amount awarded by the Tribunal in favour of the respondents is excessive and not befitting to the nature of the injuries sustained by them.

3. The main ground on which these appeals have been instituted by the appellants is before the Tribunal is that the Tribunal erred in awarding various sum under the head of pains and sufferings, medical expenses, transport to hospital, extra nourishment etc without any basis or documentary proof. According to the appellants, the Tribunal did not award the amount under the above said heads in the proper perspective, which requires to be interfered with by this Court.

4. On behalf of the respondents, it is submitted that the respondents have sustained multiple grievous injuries in the accident. Some of the claimants have sustained fracture injuries. The claimants have been hospitalised for various periods ranging from one week to three weeks. Having regard to the above factors, the Tribunal has awarded a meager compensation. In fact, according to the learned counsel for the respondents, the compensation awarded by the Tribunal is very low, however, the claimants did not prefer any appeal claiming enhanced compensation. In such view of the matter, the learned counsel for the respondents prayed for dismissal of the Appeals.

5. Heard both sides. Admittedly, the appellants did not dispute the accident. It is also not disputed that the vehicle involved in the accident has been insured with the second appellant/insurance company. The appellants only questioned the quantum of compensation awarded by the Tribunal under various heads.

6. It is seen from the award passed by the Tribunal that the Tribunal has taken into account the permanent disability suffered by the claimants on the basis of the medical records produced by them. The Tribunal has however, disbelieved the plea of the respondent as regard their earning capacity and therefore the Tribunal has arrived at a notional income of the claimants for the awarding the compensation. amount.

7. It is seen that the accident has took place at Vikravandi and immediately after the accident, the claimants

were initially taken to the private hospital and thereafter they were admitted in Government Hospital, Vikravandi. In that accident, some of the claimants have sustained fracture injuries for which they have taken treatment for a period of seven days to 15 days. Taking note of this in to consideration the Tribunal has awarded a sum of Rs.5,000/- towards transportation expenses in almost in all the cases. The Tribunal also noted that the permanent disability suffered by the claimants is between 20 and 25%, which are based on medical evidence. Having regard to the above factors, the Tribunal has awarded a just and fair compensation. I do not find that the amount awarded by the Tribunal under various heads in favour of the respondent/claimant herein is excessive or it cannot be said to be on the higher side. Consequently, I do not find any reason to interfere with the award passed by the Tribunal in all the above appeals.

8. In the result, the above Civil Miscellaneous Appeals are dismissed. No costs. Consequently connected Miscellaneous Petition, if any is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Addl. District Court,
Motor Accidents Claims Tribunal,
Fast Track Court - II,
Salem.

2.The Section Officer, VR Section,High Court,
Madras.

+4ccs to Mr.N.Vijayaraghavan,Advocate sr.67838

sr(co)
ss(3/3/2017)

C.M.A.Nos.1380 to 1383 of 2004

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