

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.2193 of 2012

The Manager,  
M/s.National Insurance Co. Ltd.,  
Karaikkal, Working another office,  
The Divisional Manager,  
74-A, Paramathi Salai, Namakkal. .. Appellant/II Respondent

versus

1.T.Vijaya

2.S.S.C.Parthiban .. Respondents/Petitioner/1st  
Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.12.2010 made in M.C.O.P. No.283 of 2008 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Namakkal.

For appellant : Mr. J.Chandran

For respondents : No appearance

JUDGMENT

The appeal is preferred by the Insurance Company/appellant against the judgment and decree dated 27.12.2010 made in M.C.O.P. No.283 of 2008 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Namakkal.

2. Background facts in a nutshell are as follows:

On 30.12.2007 at about 03.00 p.m., near S.L.S. Petrol bunk at Veppanatham, while the claimant was riding a two wheeler bearing Registration No.TN-34/E-0930, with her son in the pillion, a car bearing Registration No.PY-02/E-4005, which was driven by its driver in a rash and negligent manner, came in the opposite direction and dashed against the above said two wheeler and as a result of the said accident, the claimant has sustained multiple grievous injuries all over her body. The claimant claimed a sum of Rs.2,00,000/- towards compensation. The appellant-Insurance Company resisted the claim.

3. After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the car, which is owned by the second respondent herein and insured with the appellant and awarded a compensation of Rs.36,628/- with interest at 7.5% per annum, to be payable by the Insurance Company and further the same may be recovered from the owner of the vehicle. Aggrieved by that award, the appellant-Insurance Company has filed the present appeal.

4. Learned counsel appearing for the appellant-Insurance Company assailing the impugned award contended that though the second respondent/owner of the vehicle has undertaken to pay the compensation from the payment entitled towards damage of the vehicle, the Tribunal directed the Insurance Company to pay the compensation and recover from the owner of the vehicle. He would submit that as P.W.2/Doctor deposed that all the injuries sustained by the claimant was simple in nature, the Tribunal ought not to have awarded Rs.36,628/- as compensation. He further contended that the amount awarded by the Tribunal is excessive, exorbitant, without basis and justification and that therefore, the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

5. Learned counsel appearing for the first respondent/claimant submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the order of the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard both the learned counsel and perused the materials available on record.

7. This Court is not able to find any merits in the contention made by the learned counsel for the appellant. The reason is that the evidence of P.W.2/Doctor, has been supported with the claimant's case that she sustained injuries on her head, face, left shoulder, left hip, right leg below knee, cheek and left hand, for which she took treatment for a sum of Rs.30,000/-. Therefore, the Tribunal has come forward to award a sum of Rs.36,628/- with interest at the rate of 7.5% per annum. Therefore, considering the fact that a small amount of Rs.36,628/- alone has been awarded, I am of the considered opinion that the same needs no interference. That is confirmed as it is.

8. It is made clear that the Insurance company shall pay the amount and recover the same from the owner, as observed by the Tribunal. Therefore, the appellant-Insurance company is

directed to deposit the entire compensation amount, after deducting the amount that has already been deposited by them, with proportionate interest at the rate of 7.5% per annum, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant/first respondent is permitted to withdraw the same, on making proper application.

9. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. Motor Accidents Claims Tribunal,  
(Chief Judicial Magistrate), Namakkal.
2. The Section Officer, V.R. Section,  
High Court, Madras.

+1cc to Mr.J.Chandran, Advocate sr.4376

C.M.A. No.2193 of 2012

ak(CO)  
srg (24/05/2016)

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