

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.3482 of 2004
and
C.M.P.No.18944 of 2004

The Branch Manager,
M/s. The Oriental Insurance Company Limited,
T.S.No.3217, Keela Madavilagam,
Pudukkottai - 622 001. Appellant/2nd Respondent

... Vs ...

1. Swamy @ R.Muthuswamy
2. I.Manickam Respondents/Petitioners
(R1 - Exparte in Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 04.02.2000 made in M.C.O.P.No.65 of 1999 on the file of the Motor Accidents Claims Tribunal, (Additional Sessions Judge), Nagapattinam.

For Appellant : Mrs.R.Sreevidhya
for Mr.K.S.Narasimhan

For R-1 : Service Awaited

For R-2 : Dispensed with

JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 04.02.2000 made in M.C.O.P.No.65 of 1999 on the file of the Motor Accidents Claims Tribunal, (Additional Sessions Judge), Nagapattinam.

2. The first respondent herein as a claimant has filed a claim petition in M.C.O.P.No.65 of 1999 before the learned Additional Sessions Judge, Motor Accidents Claims Tribunal, Nagapattinam, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him against the second respondent and appellant herein. The Tribunal, after considering the evidence adduced by both parties, awarded a sum of Rs.9,80,010/- along with interest at the rate of 12% per annum from the date of petition till the date of deposit towards compensation. Aggrieved against the said award passed

by the Tribunal, the present appeal is preferred by the appellant/second respondent in the M.C.O.P.No.65 of 1999.

3. The learned counsel for the appellant/Insurance Company would mainly contend that the judgment and decree of the Tribunal is contrary to law, weight of evidence and probabilities of the case. It is further contended that the Tribunal is erred in awarding excessive amount of Rs.9,80,010/- as compensation and hence, he prayed that the award passed by the Tribunal has to be set aside and the appeal has to be allowed.

4. Even though notice was sent to the first respondent, the same was not served on him.

5. This Court considered the submissions made by the learned counsel appearing for the appellant and perused the entire records.

6. On perusal of the judgment of the Tribunal, it is seen that the Tribunal, after considering the oral and documentary evidence adduced on either side and also the disability suffered by the claimant at 49%, correctly awarded a sum of Rs.9,80,010/- under the following heads:

Medical Expenses	-	Rs.1,30,010/-
Loss of Income from 15.11.1997	-	Rs. 75,000/-
Extra nourishment	-	Rs. 25,000/-
Pain and sufferings	-	Rs. 50,000/-
Permanent disability	-	Rs.2,00,000/-
Loss of future earning power	-	Rs.5,00,000/-

		Rs.9,80,010/-

7. The Tribunal, after considering the entire facts and circumstances of the case, correctly fixed the age and income of the deceased and awarded just and reasonable compensation of Rs.9,80,010/, and in any way, it cannot be termed as excessive. Hence, the argument of the learned counsel for the appellant that the Tribunal awarded excessive compensation is not at all acceptable and hence, the civil miscellaneous appeal deserves to be dismissed.

8. In the result, the civil miscellaneous appeal is dismissed by confirming the judgment and decree dated 04.02.2000 made in M.C.O.P.No.65 of 1999 on the file of the Motor Accidents Claims Tribunal, (Additional Sessions Judge), Nagapattinam. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Jr1

To

1.The Additional Sessions Judge
Motor Accidents Claims Tribunal,
Nagapattinam.

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

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.68723

C.M.A.No.3482 of 2004

RV(CO)
CA(27/12/2016)



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