



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1948 of 2013

and

MP(MD)No.2 of 2013

The Manager,
Oriental Insurance Company Limited,
P.L.A Building, 1st Floor,
No.12-A, Covai Road,
Karur-2, Karur District.

: Appellant/3rd respondent

Vs.

1.Ramasamy
2.S.Saravanan
3.P.Llangovan

: R1/Petitioner

: R2 and R3/R1 and R2

[R2 and R3 remained exparte
before the lower court]

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award made in MCOP No.124 of 2011, dated 31.12.2012 on the file of the Motor Accidents Claims Tribunal-cum-Chief Judicial Magistrate, Karur.

For Appellant : Mr.K.Bhaskaran

For 1st respondent : Mr.M.Karthikeya Venkatachalapathy

JUDGMENT

Aggrieved over the award passed by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Karur, in MCOP No.124 of 2011, dated 31.12.2012, this appeal is preferred by the Insurance Company.

2.The first respondent herein filed a petition in MCOP No.124 of 2011 claiming compensation of Rs.5,00,000/- for the injuries sustained in the accident on 24.03.2011. According to the claimant, on the date of the accident, he was proceeding by foot on Valliammai Main road. At the time, a motor cycle bearing registration No.TN47-M-6983 came in a rash and negligent manner behind the claimant, hit against him. In the impact, he sustained



injuries on the hip, left leg and right hand. He was immediately admitted in K.G.Hospital, Karur and thereafter, he was referred to Ganga Hospital, Coimbatore, where he underwent surgery and a plate was implanted on the left leg. He alleged that the driver of the motor cycle caused the accident.

3.The appellant Insurance company resisted the claim petition contending that the injured was responsible for the accident and the driver of the motor cycle did not have a valid driving licence at the time of the accident. So, they are not liable to pay the compensation. They also disputed the age, income and occupation of the claimant.

4.To establish his claim, the claimant examined himself as PW1 and Dr.Rajendran as PW2 and marked Exs.P1 to P12. On the other hand, on the side of the Insurance Company, two witnesses were examined as RW1 and RW2 and documents Exs.R1 to R3 were marked.

5.Heard both sides and perused the materials available on record.

6.The tribunal, accepting the oral evidence of PW1/claimant and based on the First Information Report (Ex.P1), a copy of the charge sheet (Ex.P5) and the judgment of the Criminal court (Ex.P6) came to the conclusion that the driver of the motor cycle was responsible for the accident. The appellant examined RW1 and RW2 to establish that the rider of the motor cycle did not have any valid driving licence. However, the tribunal, after analysing the evidence held that they have not established their defence.

7.PW1 deposed that he had taken treatment at KG Hospital, Karur and thereafter in Ganga Hospital at Coimbatore as inpatient and underwent surgery. Ex.P3 is the wound certificate, which shows that he sustained two grievous injuries and one simple injury. PW2 Dr.Rajendran has given evidence stating that the claimant has sustained 30% permanent disability and he issued Ex.P11 disability certificate. Exs.P10 and P12 are the X-rays. The tribunal, after analysing the oral and documentary evidence, awarded Rs.30,000/- towards permanent disability; Rs.20,000/- towards pain and sufferings; Rs.5,786/- towards medical expenses, based on Ex.P8; Rs.10,000/- for transportation; Rs.10,000/- towards extra nourishment and Rs.7,000/- for loss of income during the treatment period. In total, the tribunal has awarded **Rs.82,786/-** with interest @ 7.5% p.a. This court is of the considered view that the award of the Tribunal is fair and reasonable.

8.In the result, this appeal is dismissed. The appellant Insurance Company is directed to deposit the entire amount together with interest, within a period of eight weeks from the date of the order. On such deposit, the claimant is permitted to withdraw the entire



amount without filing any formal petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSII)

WEB COPY/True Copy/

Sub Assistant Registrar

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To

The Chief Judicial Magistrate,
Karur.

COPY TO:

THE RECORD KEEPER, V.R.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1cc to Mr.K.BHASKARAN, Advocate Sr.No. 34466

JAM/18.01.2017/GSV-SV/ 3P-4C

Judgment made in

CMA (MD) No.1948 of 2013

01.07.2016