



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

Coram:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1990 of 2013

and

M.P.(MD)No.2 of 2013

The Branch Manager,
The Oriental Insurance Company Ltd.,
Lakshmi Complex Building, (4th Floor),
Salai Road,
Thiruchirappalli - 18.

.. Appellant/2nd Respondent

-Vs-

1.Muruganantham
2.Muthulakshmi

...1st Respondent/Petitioner
.. Respondent No.2/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.971 of 2008, dated 11.12.2012, on the file of the Motor Accident Claims Tribunal, III Additional Sub Judge, Thiruchirappalli.

For Appellant : Mr.C.Ramachandran

For Respondents : Mr.N.Sudhagar Nagaraj (for R1)

JUDGMENT

The appellant/Oriental Insurance Company Limited has filed the present C.M.A(MD)No.1990 of 2013, challenging the award passed in M.C.O.P.No.971 of 2008, dated 11.12.2012, on the file of the Motor Accident Claims Tribunal, III Additional Sub Judge, Thiruchirappalli.

2.It is a case of the injury caused accident took place on 22.11.2002 at about 9.30 a.m. near Trichy to Thuraiyur Road. The first respondent/claimant has filed an application seeking compensation before the Motor Accident Claims Tribunal, III Additional Sub Judge, Thiruchirappalli. The Tribunal, considering



the facts and circumstances of the case awarded Rs.51,000/- as total compensation. Challenging the same, the appellant/Oriental Insurance Company has preferred the present appeal on the ground that the claim application was filed after 3 years from the date of the alleged accident and the wound certificate was not filed.

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3.The learned counsel appearing for the appellant/Insurance Company has fairly submitted that the disability certificate was filed, but the wound certificate was not filed. Therefore, the award passed by the Tribunal fixing the liability on the appellant/Insurance Company was erroneous and the appellant ought to have been exonerated from the liability.

4.The learned counsel appearing for the first respondent/claimant denied the contention of the learned counsel appearing for the appellant on the ground that the disability certificate was filed along with the accident register, which is marked as Ex.A2, before the Tribunal, since, the accident register and disability certificate are filed, which were considered by the Tribunal, non production of wound certificate was immaterial and the Tribunal was not in error in respect of the award of the claim. This apart, the copy of the X-Ray was also marked as a document and therefore, the grounds raised by the appellant/Insurance Company deserves no consideration.

5.Considering the facts and circumstances of the case and nature of the injury sustained by the first respondent/claimant and the award of Rs.51,000/- was granted, this Court is not inclined to interfere with the findings of the Tribunal. Accordingly, the award passed in M.C.O.P.No.971 of 2008, dated 11.12.2012, on the file of the Motor Accident Claims Tribunal, III Additional Sub Judge, Thiruchirappalli, is confirmed and the Civil Miscellaneous Appeal is dismissed.

6.The learned counsel appearing for the appellant/Oriental Insurance Company represented that the entire award amount has already been deposited with accrued interest and the first respondent/claimant has already been withdrawn 50% of the award amount and the first respondent/claimant is permitted to withdraw the balance 50% of the award amount along with accrued interest through RTGS by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/



To

The Motor Accident Claims Tribunal,
III Additional Sub Judge, Thiruchirappalli.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai

+1 cc to MR.C.RAMACHANDRAN, Advocate SR.No.72393

+1 cc to MR.N.SUDHAGAR NAGARAJ, Advocate SR.No.71751

C.M.A (MD) No.1990 of 2013

and

M.P. (MD) No.2 of 2013

22.11.2016

SMA/GSV-PM/03.01.2017:3P/5C