



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.06.2016
ORDER DATED : 27.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY. RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.M.A.(MD).No.407 of 2011 & M.P(MD)No.1 of 2011

New India Assurance Company Limited.,
Represented by its Divisional Manager,
92, G.N.Chetty Road,
T.Nagar, Chennai - 17.

... Appellant/Respondent No.2

-Vs.

1.Michel George
2.Gnanadurai

...Respondent/Petitioner
...Respondent/Respondent-1

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree dated 15.02.2008 and made in M.C.O.P.No.237 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Judge / Fast Track Court No.2, Tirunelveli.

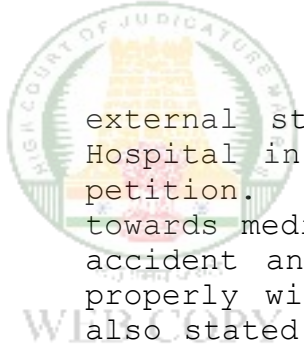
For Appellant : Mr.R.Srinivasan
For Respondent 1 : Ms.C.Arockia Selvi
Respondent 2 ex parte

JUDGMENT

S.S.SUNDAR, J.

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, which is the second respondent before the Claims Tribunal. The first respondent is the claimant before the Tribunal. The first respondent has filed M.C.O.P.No.237 of 2007 on the file of the Motor Accidents Claim Tribunal (District Judge), Tirunelveli, claiming a sum of Rs.50,00,000/- with future interest at the rate of 12% from the date of petition. In his claim petition before the Tribunal, the first respondent has stated that on 27.11.2006 at about 9.15 a.m., he was riding a Hero Honda motorcycle and that he met with an accident due to the rash and negligent driving of the vehicle viz., Tata Ace, belonging to the second respondent herein and insured with the appellant/insurance company.

2. The petitioner, due to the tragic accident, claimed to have suffered multiple fractures over both the right and left legs in addition to numerous fractures over the skull and right hand. The claimant underwent several surgical corrections and blood transmission, apart from suffering continuous pain. According to the claimant, internal and



external steel rods were fixed and he has taken treatment at Appolo Hospital in Madurai and was an inpatient till the date of filing of the petition. The claimant, claimed to have spent a sum of Rs.15,00,000/- towards medical expenses. The claimant was aged 39 years at the time of accident and as a result of the accident, the claimant could not walk properly without limping and without the help of others. The claimant also stated that he will not be, in future, able to do any work. Having regard to the fact that he had suffered permanent disability and loss of earning power, the claimant wanted compensation to the tune of Rs.20,00,000/- towards loss of earning. After making several claims, in all to the tune of Rs.56,22,400/- the claimant restricted his claim to a sum of Rs.50,00,000/-.

3. Though the appellant did not seriously dispute the accident and other facts relating to the accident, they filed counter disputing the quantum of income and further contended that the accident had occurred owing to the negligent act of the claimant. The second respondent also disputed the liability of the insurance company on the ground that the driver of the vehicle did not have a valid and effective licence to drive the vehicle at the time of accident.

4. The Tribunal framed necessary issues and found that the accident was caused due to the rash and negligent driving of the driver of the second respondent vehicle. The Tribunal also, after considering the material documents and oral evidence, arrived at a finding that the claimant is entitled to a sum of Rs.14,87,000/- in all, as compensation.

5. The Tribunal fixed a sum of Rs.1,87,133/- towards loss of income. For pain and sufferings, a sum of Rs.30,000/- has been granted by the Tribunal. Though the claimant claimed a sum of Rs.15,00,000/- towards medical expenses, a sum of Rs.11,50,000/- has been granted by the Tribunal on the basis of the bills, receipts and other documents and evidence. On other accounts, a sum of Rs.20,000/- has been granted by the Tribunal.

6. The learned counsel for the appellant strenuously argued that the award of Rs.11,50,000/- towards medical expenses is not acceptable. Further, it was contended by the appellant that the claimant, being a Government servant, is entitled to get the amount reimbursed by his employer viz., the Government of Tamil Nadu.

7. We have gone through the pleadings, the documents and the evidence of witnesses including that of the Medical Officer who were examined to prove the claimant's case on the quantum of compensation.

8. From the documents viz., the discharge summaries, permanent disability certificate, the certificate regarding treatment underwent by the claimant and the bills for the treatment and the medicines consumed, we are able to find that the Tribunal is justified in awarding a sum of Rs.11,50,000/ towards medical expenses. On the basis of the salary certificate and income tax returns, the Tribunal has fixed the salary of the claimant at Rs.18,528/- and awarded compensation of Rs.1,87,133/- by taking into account the fact that the claimant was in hospital for treatment for 303 days.



9. In the aforementioned circumstances, we find no reason to interfere with the award of the Tribunal and hence, this Civil Miscellaneous Appeal is dismissed confirming the award of the Tribunal dated 15.02.2008 made in M.C.O.P.No.237 of 2007 by the Additional District Judge, Fast Track Court No.2, Tirunelveli. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To
The Motor Accidents Claims Tribunal,
(Addl. District Judge)
Fast Track Court,
Tirunelveli.

+1CC to M/S.T.Murugan, Advocate, SR.No. 33993

+2CC to M/S.R.Srinivasan, Advocate, SR.No. 33193 and 30536

Judgment in
C.M.A.(MD).No.407 of 2011
.06.2016

SRM

AM/NGM.MP/06.07.2016/3P/5C