

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.1049 of 2017
and C.M.P.No.5333 of 2017

National Insurance Co. Ltd.,
Branch Office, No.2, Maruthi Complex,
Omalur Main Road,
Salem, Salem District. ... Appellant / 3rd respondent

versus

1. Balaji subram ... 1st respondent/petitioner
2. V.Perumal ... 2nd respondent/1st respondent
3. P.Chinnathambi ... 3rd respondent/2nd respondent
(R2 and R3 remained ex parte
before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.09.2004 made in M.A.C.T.O.P.No.354 of 2001 on the file of the Motor Accident Claims Tribunal (Sub-Judge), Bhavani.

For Appellant : Mr.K.Suryanarayanan

JUDGMENT

The claimant Balajisubram has claimed a sum of Rs.3,00,000/- as compensation, in respect of damages caused to a Maruthi Car, in an accident on 15.06.2000.

2. It is not in dispute that the vehicle is covered by a valid policy of the Insurance.

3. The Tribunal has awarded a sum of Rs.2,50,000/-, based on Ex.P7, which is the proof for extent of damages caused.

4. The learned counsel appearing for the appellant would point out that in the evidence, the claimant has stated that he has spent a sum of Rs.50,000/- towards transport expenses, but, no proof has been adduced. Contending that application of the principle (of restitutio in integrum) would permit restoration of damages to the extent of restoring the car to the original position just prior to the accident and it did not permit replacement of entries spare parts. In other words, it is pointed out that the Tribunal should have deducted some amount towards depreciation of the part replaced.

5. This contention though appears to be attractive, is not acceptable in this case as there is no evidence to show the extent of depreciation. It would be relevant to point out that just prior to the accident, the car was in a running condition, and to again make it in a running condition, which became immobile on account of accident, whatever is to be done, is the cost to be incurred by the appellant; and as it is incurred by the claimant, it has to be repaid by the respondent.

5. Accordingly, this Civil Miscellaneous Appeal is dismissed, confirming the award dated 30.09.2004 passed in M.A.C.T.O.P.No.354 of 2001 by the Motor Accident Claims Tribunal (Sub-Judge), Bhavani.

6. The Insurance Company shall deposit the entire amount of compensation along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant shall withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(Sub Judge), Bhavani.

Copy to:
The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.1049 of 2017

mp(co)
ss(27/10/2017)