

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

C O R A M

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

C.M.A.No.983 of 2007 & M.P.No.2 of 2007

The Divisional Manager,
M/s. Oriental Insurance Company Limited,
S.V.Complex, Eswaran Koil St.,
Pondicherry.Appellant/2nd Respondent

Vs.

1.Minor Bharathiraja
Rep.by its father Pazhanisamy1st Respondent/Petitioner

2.K.Pandurangan

(Ex-parte in the Lower Court) ...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree, dated 31.10.2003, made in M.C.O.P.No.491 of 1998 on the file of the Motor Accidents Claims Tribunal (II Additional Sub Judge), Villupuram.

For Appellant : Mrs. R. Sreevidhya
For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed against the Judgment and decree passed in M.C.O.P.No.491 of 1998 dated 31.10.2003 on the file of the Motor Accidents Claims Tribunal (II Additional Sub Judge), Villupuram.

2 The respondent herein is the claimant before the Tribunal. It is the case of the claimant that on 09.06.1996 at about 5.30 hrs., the first respondent/claimant was travelling in a lorry bearing Registration No. TN.2-7656, as a passenger, from Tirukoilur to Bangalore. The driver of the said lorry had driven the vehicle in a rash and negligent manner, hit against a Tamarind tree and whereby, the first respondent/claimant sustained greivous injuries. The claimant/injured person was given treatment in the Government hospital, Krishnagiri and

thereafter, he took treatment in Jipmer hospital, Pondicherry. Hence, the first respondent/Claimant has claimed a sum of Rs.50,000/-, before the Tribunal, as compensation.

3 Before the Tribunal, the case of the claimant was resisted by the Insurance Company by filing a detailed counter denying the case projected by the claimant.

4 On the side of the claimant, the father of the claimant was examined as PW.1 and Ex.P.1 to Ex.P.4 were marked. On the side of the respondent/Insurance Company RW.1 was examined and Ex.R.1 and Ex.R2 were marked.

5 Upon perusal of evidence and records, the Claims Tribunal found that both the second respondent, who is the driver of the lorry and the appellant/Insurance company, who is the insurer of the said vehicle, are jointly and severally held liable for a sum of Rs.20,000/- as compensation. The break up compensation are as follows:-

For simple injuries	Rs. 3,000/-
For Medical expenses	Rs.10,000/-
Extra nourishment & Conveyance	Rs. 7,000/-
Total	Rs.20,000/-

6 The appellant/Insurance company has filed this appeal, questioning the liability. It is argued that at the time of accident the lorry was driven by the Cleaner who holds learner's licence and further, the injured person travelled in a lorry as unauthorised person in a goods vehicle and is not entitled for any compensation from the Insurance Company.

7 The Tribunal has observed that the vehicle involved in the accident was insured with the appellant and the driver has also having licence which are marked as Ex.P.10. It is because of the driver of the vehicle who allowed the cleaner to drive the vehicle and also allowed the injured to travel in this vehicle. The driver is responsible for the rash and negligent driving of the vehicle, which is insured with the appellant. Hence, the injured person is no way responsible for all these illegal act of the respondent driver and injured person is entitled for compensation for the injury sustained by him.

8 Hence, on the basis of the liability, the findings given by the Tribunal, does not warrant any interference and the findings of the Tribunal is confirmed. It is also informed that the amount awarded by the Tribunal was deposited in full.

9 In the result, the Civil Miscellaneous Appeal is

dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs. The appellant / Insurance company has already deposited the entire award amount, along with interest and costs as ordered by the Tribunal. The Tribunal is directed to transfer the award amount directly to the bank account of claimant through RTGS within a period of two weeks thereafter.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

rpl

To

1. The Motor Accidents Claims Tribunal,
(II Additional Sub Judge),
Villupuram.

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

+1 CC to Mrs. R. Sreevidhya, Advocate sr 90442.

C.M.A.No.983 of 2007

SJ(CO)
SP(06/07/2018)

सत्यमेव जयते

WEB COPY