

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.Nos.440 & 441 of 2006
& C.M.P.Nos.1501 & 1502 of 2006

The National Insurance Company Limited,
Third Party Motor Accident Claim Cell,
No.752, Anna Salai,
Chennai - 600 002.

... Appellant [in both
C.M.As.]/2nd respondent

-vs-

1.Raja ...1st Respondent/Peteitioner

2.N.Ramesh ...2nd Respondent/1st Respondent
[in C.M.A.No.440 of 2006]

1.Dayalan ...1st Respondent/Petitioner

2.N.Ramesh ...2nd Respondent/1st Respondent
[in C.M.A.No.441 of 2006]

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the common judgment and decree dated 01.11.2004 made in M.A.C.T.O.P.Nos.226 of 2002 and 47 of 2004 respectively on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Ponneri.

For Appellant : Mr.S.Vadivel
[in both C.M.As.]
For Respondent No.1 : Mr.S.Giritharan
[in both C.M.As.]

COMMON JUDGMENT

These appeals arose out of common judgment dated 01.11.2004 in M.A.C.T.O.P.Nos.226 of 2002 and 47 of 2004 respectively on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Ponnerri.

2. The facts necessary for the disposal of the appeals are as follows:

2.1. On 15.04.2002, at about 4.30p.m. while the petitioners were travelling on a motor cycle from Minjur to Thataperumpakkam Village, they met with an accident. According to them, the Lorry bearing Registration No.TN-47-B-9955 owned by the second respondent, insured with the appellant was driven in a rash and negligent manner and dashed against their motor cycle, as a result of which, they suffered injuries. They have claimed a total compensation of Rs.1,00,000/- each.

2.2. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the driver of the Lorry and awarded total compensation of Rs.21,000/- with interest at the rate of 9% per annum in M.A.C.T.O.P.No.226 of 2002 and Rs.15,000/- with interest at the rate of 9% per annum in M.A.C.T.O.P.No.47 of 2004.

3. The learned counsel appearing for the appellant / Insurance Company would submit that the amounts awarded by the Tribunal under several heads were on the higher side.

4. The learned counsel appearing for the first respondent / claimants would submit that the claimants sustained injuries and the Tribunal awarded only a reasonable compensation.

5. The claimant in M.A.C.T.O.P.No.47 of 2004 sustained two simple injuries and the claimant in M.A.C.T.O.P.No.226 of 2002 sustained four simple injuries. The Tribunal awarded Rs.3,000/- per injury. It awarded Rs.3,000/- under the head "pain and suffering" and allowed Rs.3,000/- under the head "extra-nourishment". Under the head "transport charges", the Tribunal awarded Rs.2,000/- and Rs.1000/- for the "damage of clothes".

6. Admittedly, the claimants were shifted to hospital from the place of accident and from the hospital to their residence. Therefore, it cannot be said that the amount awarded under the head "transport charges" is on the higher side.

7. It is seen from Ex.P.2 & Ex.P.11 (copies of accident register) and Ex.P.4 (wound certificate) that the injuries suffered by the claimants were simple in nature. The Tribunal awarded Rs.3,000/- in M.A.C.T.O.P.No.226 of 2002 and Rs.3,000/- in M.A.C.T.O.P.No.47 of 2004 under the head "pain and sufferings". There is no material to show that the amounts fixed by the Tribunal are on the higher side. Having regard to the nature of injuries sustained by the claimants, I hold that the Tribunal awarded only a reasonable compensation. The function of

the Tribunal is to award just compensation. Having regard to the facts and circumstances of the case, I hold that the compensation awarded under several heads by the Tribunal is just and reasonable. I do not find any merit in these appeals.

8. In the result, the Civil Miscellaneous Appeals are dismissed. Since the appellant / Insurance Company had deposited the entire award amount of Rs.21,000/- with interest at the rate of 9% per annum in M.A.C.T.O.P.No.226 of 2002 and Rs.15,000/- with interest at the rate of 9% per annum in M.A.C.T.O.P.No.47 of 2004 and costs, less the statutory deposit, to the credit of M.A.C.T.O.P.Nos.226 of 2002 and 47 of 2004 respectively on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Ponneri, the claimants are permitted to withdraw the same with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. Consequently, connected Civil Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sri
To

The Motor Accidents Claims Tribunal
(Subordinate Court), Ponneri.

+ 2 ccs to Mr.S.Vadivel, Advocate Sr.9916, 9917

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

C.M.A.Nos.440 & 441 of 2006

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