



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

Coram:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A(MD)No.530 of 2017

and

C.M.P (MD)No.5670 of 2017

The Manager,
National Insurance Company Limited,
Vigneswara Building,
Near Over Bridge,
2/7, Pudukkottai Road,
Tiruchirappalli

.. Appellant/Second Respondent

-Vs-

1.V.Kalimuthu

..First Respondent/Petitioner

2.P.Elangeswaran

..Second Respondent/First Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the judgement and decree made in M.C.O.P.No.213 of 2008, dated 21.09.2011, on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Karur.

For Appellant : Mr.D.Sivaraman

JUDGMENT

The claimant, who suffered injuries in the motor accident that occurred on 08.11.2007, sought for compensation of Rs.5 lakhs for the injuries suffered by him.

2.The appellant/Insurance Company resisted the claim petition on the ground that three persons travelled in a two-wheeler and they were also drunk. The claimant, who drove the vehicle did not have a valid driving licence. Therefore, according to the Insurance Company, certain amount of contributory negligence should have been attributed to the claimant also.

3.The Tribunal, upon consideration of the oral and documentary evidence, came to the conclusion that the accident had occurred due to the negligence of the driver of the offending vehicle i.e.,the vehicle belonging to the second respondent. The Tribunal also took note of the non-examination of the second



respondent, who was driving the offending vehicle, by the Insurance Company.

4. On the quantum, the Tribunal assessed the disability at 50% and granted a sum of Rs.1,000/- per percentage of disability and granted a sum of Rs.50,000/- towards partial permanent disability, Rs.20,000/- towards pain and suffering, Rs.4,610/- towards medical expenses, Rs.5,000/- towards transportation, Rs.5,000/- for extra nourishment and Rs.5,000/- towards loss of income and in all, granted a sum of Rs.89,610/- as compensation.

5. The learned counsel for the appellant would contend that certain amount should be attributed towards contributory negligence of the injured claimant, because three persons travelled in a Motor Cycle.

6. Considering the fact that the Tribunal has only granted Rs.1,000/- per percentage of disability, even if certain amount of contributory negligence is attributed to the injured claimant, the same may not make any difference as the amount awarded towards disability requires enhancement. The award as the whole is reasonable. Hence I do not see any reason to interfere with the award of the Tribunal and thus, the appeal fails.

7. Accordingly, the Civil Miscellaneous Appeal stands dismissed. Consequently, connected Civil Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

/ True Copy /

Sub Assistant Registrar (C.S.)

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal, Karur.

+1cc to M/S.D.SIVARAMAN, Advocate SR.No.61993

vsn

MAS/MR-KKR/SAR2:13.07.2017:2P-3C

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