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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.397 OF 2015

and

M.P.(MD) No.1 of 2015

The Manager,
ICICI Lombard General Insurance Co.
United Arcade,
II Flooor, Annamalai Nagar,
Karur Bye Pass Road,
Thillai Nagar, Trichy.

... Appellant

Vs.

1.Manoharan
2.Ravichandran

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 28.10.2011 made in M.C.O.P.No.165 of 2009 on the file of Motor Accident Claims Tribunal (Sub Court), Karur.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.K.Suresh Kumar for R1
No Appearance for R2

JUDGMENT

ICICI Lombard General Insurance Company, Trichy has filed this civil miscellaneous appeal questioning the award dated 28.10.2011 made in M.C.O.P.No.165 of 2009 on the file of the Motor Accidents Claim Tribunal/Subordinate Judge, Karur.

2.The first respondent herein filed the said claim petition seeking compensation for the serious injuries suffered by him all over his body in an accident that took place on 09.08.2008. The offending vehicle was insured with the appellant company. The Tribunal awarded a sum of Rs.1,50,000/- with interest at 7.5% per annum. Questioning the same, this civil miscellaneous appeal has been filed.



3. Heard the learned counsel for the parties.

4. The appellant contended that the Tribunal erred in fixing negligence on the vehicle insured by the appellant. The Tribunal went into the contention that FIR is registered against the rider of the other vehicle and not against the rider of the vehicle insured with the appellant herein. The Tribunal rightly observed that the issue regarding negligence cannot be determined solely on the strength of the FIR or the final report. The Criminal Court had not come to the conclusion that the rider of the other vehicle was responsible for the accident in question. The Tribunal based on the evidence of the claimant came to the conclusion that the rider of Yamaha bearing Registration No. TN 47 R 6229 insured with the appellant alone was responsible. Except marking the final report, no contra evidence has been adduced by the appellant. Therefore, based on the materials available before it, the Tribunal came to the conclusion that negligence has to be fixed on the vehicle insured with the appellant. I see no reason to interfere with the said finding.

5. The claimant had suffered multiple injuries. He was an inpatient for almost 10 days. He had suffered permanent disability to the tune of 20%. The claimant examined the doctor, who gave him treatment as P.W.2. The Tribunal awarded a sum of Rs.40,000/- towards permanent disability and further a sum of Rs.40,000/- towards loss of income. Rs.22,000/- was awarded towards pain and suffering. In all, a sum of Rs.1,50,000/- was awarded. This cannot be said to be excessive.

6. There is no merit in this appeal. It stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Subordinate Judge,

The Motor Accident Claims Tribunal, Karur.

2. The Record Keeper, Vernacular Section,

Madurai Bench of Madras High Court, Madurai.

+One cc to Mr. K. Suresh Kumar, Advocate, SR.No.82439

+One c to Mr. S. Srinivasa Raghavan, Advocate, SR.No.82606

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RL/5C/2P/SV/MMS/SAR1/3/11/2017

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