



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 313 of 2011

and

M.P.(MD)No.1 of 2011

United India Insurance Company Ltd.,
through its Divisional Manager,
No.457, V.E.Road,
Thoothukudi.

... Appellant/ 3rd Respondent

Vs.

1.V.Thangapandian ...1st Respondent/Petitioner/Claimant

2.G.Raja ...2nd Respondent/1st Respondent

3. Sivaram Transport and shipping Services,
210,211,New Colony,
Thoothukudi - 628 003. ...3rd Respondent/2nd Respondent

(Respondent 2 -3 stood ex-parte)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.73 of 2004 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) Thoothukudi, dated 14.11.2005.

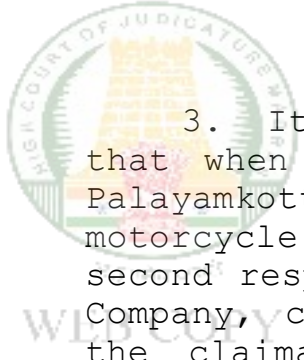
For Appellant : Mr.S.Natarajan

For Respondents : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award made in M.C.O.P.No.73 of 2004 by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) Thoothukudi, dated 14.11.2005.

2. It is a case of injury sustained by the injured/claimant, in an accident, which took place on 04.05.2003 at 19.10 hours at Thoothukudi - Palayamkottai Main Road, in front of Rajaji Park.



3. It is the case of the injured/claimant before the Tribunal that when the injured was riding his bicycle in Thoothukudi - Palayamkottai Main Road, in front of Rajaji Park front gate, the motorcycle bearing Registration No. TN.69-E-5666 belonging to the second respondent and insured with the third respondent Insurance Company, came in a rash and negligent manner and dashed against the claimant. Due to the said impact, the injured/claimant sustained multiple grievous injuries all over the body.

4. The injured/claimant filed an application in M.C.O.P.No.73 of 2004, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thoothukudi.

5. Before the Tribunal, the first respondent/claimant examined two witnesses as P.Ws.1 to 2 and marked twelve documents as Ex.P.1 to Ex.P.12 and the appellant/Insurance Company did not let in any oral or documentary evidence.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the appellant/Insurance Company and directed the appellant to pay a sum of Rs.1,10,195/-, as compensation.

7. Against which, the appellant/Insurance Company has filed this present appeal challenging the liability as well as quantum.

8. Though various grounds have been raised in the grounds of appeal, at the time of making arguments, the learned counsel appearing for the appellant restricted his arguments only to the question of quantum and submitted that without considering the evidence, the Tribunal awarded excess compensation and therefore, the same is to be reduced.

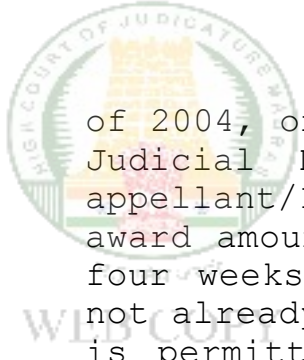
9. Heard the submissions made by the learned counsel appearing for the appellant and perused the materials available on record.

10. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail about the manner of the accident, the injuries sustained by the injured/claimant and the period of treatment undergone by him.

11.Considering the injuries sustained by the injured/claimant, in my considered view, the compensation awarded by the Tribunal is very low and if the latest judgments are applied, the compensation will be more. Therefore, I do not want to interfere with the award passed by the Tribunal.

<https://hcservices.ecourts.gov.in/hcservices/>

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 14.11.2005 passed in M.C.O.P.No.73



of 2004, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thoothukudi, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimant is permitted to withdraw the said amount with accrued interests and costs, without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To,

1.The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate)
Thoothukudi.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.S.Natarajan , Advocate in SR.No. 75961

pm

AE/KK/SAR1/18.09.2017/3P/4C

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