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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM:

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM
C.M.A.No.1230 of 2006

M/s.National Insurance Co. Ltd.,
751, 3rd Floor, Anna Salai,
Chennai - 2.

... Appellant

Versus

1.E.Kesavan
2.M.Perumal

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.08.2005 made in O.P.No.3471 of 2000 on the file of the Motor Accidents Claims Tribunal (III Judge, Court of Small Causes), Chennai.

For Appellant : Mrs.R.Sreevidhya

For Respondents: No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 01.08.2005 made in O.P.No.3471 of 2000 on the file of the Motor Accidents Claims Tribunal (III Judge, Court of Small Causes), Chennai.

2. The brief facts of the case are as follows :

On 23.04.2000 at about 11.10 p.m., the claimant was travelling as a pillion rider in a two wheeler bearing Registration No.TN-10-7965, while proceeding in GST Road from Tambaram to Pallavaram and nearing Ponds Company, suddenly a cow jumped and ran in front of the vehicle, due to which, the rider of the two wheeler had applied sudden brake, the claimant was thrown away from the vehicle and sustained injuries. The claimant has claimed a sum of Rs.5,00,000/- as compensation for injuries sustained by him.



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3. The appellant/Insurance Company, in the counter statement, has denied the accident. It is also stated that the claimant has not filed any relevant document with regard to the possession of valid driving license, at the time of the accident. The other grievances raised by the appellant/Insurance Company is that the registration of the vehicle stands in the name of one Perumal. The other aspects regarding the age, income and occupation of the claimants are very much denied. Further the appellant has also denied the sum claimed by the claimant.

4. The Tribunal, after analysing the evidence and documents, has given a finding that the accident had occurred due to the rash and negligent riding on the part of the rider of the two wheeler. It is also observed that the vehicle was jointly owned by the the rider Govindan along with one Perumal. While, determining the compensation, the tribunal by taking into considering the nature of injury, age, occupation, loss of income has awarded a sum of Rs.1,76,500/-. Aggrieved against the liability and also the quantum, the Insurance Company has preferred this appeal.

5. In the grounds of appeal, it has been stated that the Tribunal has observed that the accident had occurred only due to the unavoidable condition of the rider of the vehicle, lost his control and there is no rash and negligent riding on the part of the rider of the vehicle and without any basis, the tribunal has arrived a sum of Rs.1,00,000/- as compensation is unsustainable. The sum awarded under various heads are also improper and not justified.

6. Heard the learned counsel for the appellant and perused the materials on record.

7. Though the appeal has preferred by the appellant disputing liability, the arguments advanced by the appellant are mainly on quantum of compensation.

8. On a perusal of the records, it is observed that the claimant sustained severe injuries, only due to the rash and negligent riding on the part of the rider of the vehicle and the claimant was thrown away from the vehicle and sustained injuries. P.W.1 has deposed that the claimant was admitted on 24.04.2000 in the Government Hospital, Chrompet and discharged only on 02.05.2000. Subsequently, he was also given treatment in Vignesh Hospital, for which, the relevant documents were produced before the Tribunal. Exs.P3 and P4- Medical bill were also produced before the Tribunal. P.W.2 has deposed that for blood goofing in the nerves and brain, the claimant was admitted as inpatient in the Government Hospital. The CTC



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scan, x-ray and history of treatment were also placed before the tribunal with regard to said the injuries sustained by the claimant. The doctor assessed the disability at 50% and has filed Ex.P9- disability certificate. Hence, it is the clear evidence that the claimant has sustained head injury and he is not able to do his routine work.

9. It is also seen from the records, the tribunal, by considering the nature of work (mosaic work) of the claimant, who is depending upon his daily wages and difficulties in meeting out his livelihood and family expenses affected because of his disability, has considered the 50% disability and awarded a sum of Rs.5,000/- towards disability. This Court finds that the said amount is very much proper and reasonable, in view of the documents placed before the tribunal viz., ECG-Ex.P10 and CTC Scan- Ex.P11. The medical expenses incurred by the claimant are also very much proved. The tribunal has awarded a sum of Rs.1,000/- towards transport expenses, Rs.1,000/- towards nourishment and Rs.1,000/- towards damage of property are very much reasonable. The sum of Rs.4,500/- awarded for medical expenses against the claim of Rs.10,000/- is also proper. Hence, this Court is of the view that the sum awarded for transport expenses, pain and suffering and medical expenses are very much reasonable and does not require any interference with the findings of the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

11. Accordingly, the appellant/Insurance Company is directed to deposit the entire award amount as awarded by the Tribunal, with interest at 7.5% per annum and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the claimant's bank account through RTGS within one week thereon.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal

(III Judge, Court of Small Causes), Chennai.



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

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+1cc to Mrs.R.Sree vidhya , Advocate SR.No. 75439

C.M.A.No.1230 of 2006

A.SK(18/09/2019)