

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.1975 of 2005

United India Insurance Co., Ltd.,
Manager, Branch Office,
Vellore.

.... Appellant /2nd Respondent

Versus

1.Muniappan 1st Respondent/Claimant

2.S.Deivanai2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 28.11.2003 made in M.C.O.P.No.517 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Judge, FTC), Dharmapuri.

For Appellant : M/s.N.Mala
for M/s.Revathi Muralidharan

For R1 : Mr.V.Manisekaran
R2-Exparte

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Judgment and Decree dated 28.11.2003 made in M.C.O.P.No.517 of 2000 on the file of the Motor Accident Claims Tribunal, FTC, Additional District Judge, Dharmapuri.

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

On 20.04.2000 at about 13.15 hours, the claimant was proceeding in his cycle, at that time, the lorry bearing registration No.TDJ 5211 driven by its driver, in a rash and negligent manner from Dharmapuri to Krishnagiri, lost his control and dashed against the claimant, then against the car, which was coming in the opposite direction. The claimant has not

sustained any injuries, but he was unable to do his routine work. Hence, the claimant has claimed a sum of Rs.2,00,000/- as compensation.

3. The appellant/Insurance Company, in the counter statement, has also denied the negligence on the part of the lorry driver and it is also averred that the driver and the insurer of the car was not made as party in the claim application and the other aspects with regard to his age, income and occupation and the claim made by the claimant was objected by the appellant/Insurance Company.

4. The Tribunal, after analyzing the evidence and documents before it, has awarded a sum of Rs.1,75,000/- against the claim of Rs.2,00,000/-. Aggrieved against the same, the appellant/Insurance Company has preferred this appeal.

5. In the grounds of appeal, the appellant has stated that the sum awarded by the Tribunal under disability at 25% as Rs.60,000/-, is highly excessive. The sum awarded Rs.15,000/- towards injury is also not proper. Further, the sum awarded under the head pain and suffering at Rs.70,000/- is highly excessive. The claimant suffered only three injuries and only one grievous injury and in the absence of medical details, the sum awarded at Rs.20,000/- under the head medical expenses is also not proper. Hence, on the whole, the appellant/Insurance Company is aggrieved against the compensation awarded by the Tribunal.

6. Before the Tribunal, on the side of the claimant, Exs.P1 to P4 were marked. Ex.P2 is Accident Register and Ex.P4 is Disability Certificate. The claimant before the Tribunal has stated that he sustained injuries all over the body and he was under treatment as inpatient for one week and even after treatment he was unable to attend his routine work. He has also incurred loss of income, because of the disability sustained in the accident. The Doctor has given the disability certificate Ex.P4 at 25%.

6a) The Tribunal, after analyzing the injury, awarded a sum of Rs.10,000/- for a grievous injury and Rs.5,000/- for two simple injuries apart from the sum of Rs.60,000/- already awarded by taking disability at 25%.

7. It is the arguments advanced by the appellant that the Tribunal has awarded Rs.60,000/- by taking 25% disability, without any basis.

8. On perusal of the records, it is observed that the claimant has not filed any documents for medical expenses. Even

in the absence of the documents, substantiating medical expenses, the claimant would have spent some amount for medical expenses and that has to be properly considered. The other head, for the transport expenses, a sum of Rs.5,000/- was awarded by the Tribunal is reasonable. Hence, as per the arguments of the appellant/Insurance Company as well as based on the documents, the award stands modified as follows :

Head	Awarded amount	Modified amount
For Grievous injury	10,000.00	-
For simple injuries	5,000.00	-
For 25% disability	60,000.00	50,000.00
For Pain and suffering	70,000.00	70,000.00
For Medical expenses	20,000.00	20,000.00
For Extra nourishment	5,000.00	5,000.00
For Transport expenses	5,000.00	5,000.00
Total Compensation	1,75,000.00	1,50,000.00

9. Hence, the award of Rs.1,75,000/- granted by the Tribunal in MCOP. No.517 of 2000 is reduced to Rs.1,50,000/-. The said amount shall carry the same rate of interest as awarded by the Tribunal, namely, 9% per annum.

10. Accordingly, This Civil Miscellaneous Appeal is partly allowed. No costs.

11. The appellant/Insurance Company is directed to deposit the entire award amount, in respect of above Appeal as per the modified award passed by this Court, with interest 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

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(Additional District Judge, FTC) Dharmapuri.

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

+1cc to Mr.V.Manisekaran, Advocate, S.R.No. 67341

CMA.No.1975 of 2005

KJI (CO)
GN(06/03/2019)



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