

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2724 of 2008  
and M.P.No.1 of 2008

M/s.United India Insurance  
Company Limited,  
Third Party Claims Cell,  
III Floor, Anna Salai,  
Chennai - 600 002.

...Appellant/2<sup>nd</sup> Respondent

Vs

1.K.Hari

..Petitioner/Respondent

2.A.Ashok Kumar Chowdary

...1<sup>st</sup> Respondent/Respondents  
(R-2 set exparte in the Lower Court)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 23-03-2005 made in MCOP No.194 of 2002 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri.

For Appellant : Mrs.R.Sree vidhya

For Respondents : R1 - Not ready in notice  
incorrect address

R2 - Exparte

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the quantum of compensation awarded by the Tribunal under the impugned Award dated 23.03.2005, passed by the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri in MCOP.No.194 of 2002.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)The first respondent sustained injuries on 24.05.2002 as a result of an accident caused by a lorry bearing Registration No.AP.26-U-7319 owned by the second respondent and insured with

the Appellant. The first respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.194 of 2002, seeking a compensation of Rs.3,00,000/-.

(ii)The Motor Accident Claims Tribunal by its Award dated 23.03.2005 in MCOP.No.194 of 2002, directed the Appellant to pay the first respondent a sum of Rs.2,70,800/- together with interest at the rate of 9% per annum from the date of claim till the date of realization.

(iii) Aggrieved by the quantum of compensation awarded by the Tribunal, the instant appeal has been filed by the Appellant Insurance Company

3.Heard, Mrs.Sreevidhya, learned Counsel for the Appellant. Since this appeal relates to the year 2008 and this Court is going to confirm the Award, there is no necessity to serve the notice on the respondents.

4.According to the learned Counsel for the Appellant, the Tribunal ought not to have applied multiplier method in assessing the compensation payable to the first respondent. According to her, the Tribunal has erred in awarding a disproportionate compensation invoking the provisions of section 163-A when the claim petition is filed under Section 166 of Motor Vehicles Act. Further, she would submit that the alleged disability of the first respondent was not assessed in accordance with the Schedule I of the Workmen's Compensation Act, which is mandatory for the assessment of compensation under Section 163-A of Motor Vehicles Act.

5.This Court has examined the impugned Award. The nature of the injuries sustained by the first respondent has not been disputed by the Appellant before the Tribunal. The first respondent has produced the discharge summary, scan reports, x-rays and disability certificate, which are marked as exhibits before the Tribunal. The first respondent was doing Paddy and Rice business at the time of the accident and he was earning a monthly income of Rs.5,000/- out of the said business. As a result of the accident, the first respondent has sustained hip fracture and grievous injuries. In his deposition, he has stated that due to the said injuries he is unable to squat for a long period of time and is also having difficulties in driving vehicles. As per the disability certificate Ex.P-10, the Doctor assessed the disability of the first respondent at 70%. But, the Tribunal under the impugned Award has assessed the disability only at 50% on the side of the Appellant. No oral or documentary evidence were produced before the Tribunal.

6.The Tribunal under the impugned Award has considered the oral and documentary evidence available on record and only thereafter, has passed the impugned Award in favour of the first

respondent. The Tribunal has also rightly applied the multiplier method while assessing the compensation considering the fact that the first respondent has sustained hip fracture and sustained grievous injuries which has resulted in his immobility. The Tribunal under the impugned Award has passed a reasoned and well considered Award and the compensation awarded to the first respondent is a just compensation.

7. Therefore, this Court does not find any merit in the instant appeal. Accordingly, the civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest at the rate of 9% per annum from the date of claim till the date of realization, after deducting the amount already deposited, if any, to the credit of MCOP No.194 of 2002, on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent is permitted to withdraw the said sum by filing an appropriate application.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

kyl/pam

To

1. The Motor Accident Claims Tribunal  
(Subordinate Judge) Ponneri.

Copy to

The Section Officer,  
VR Section,  
Madras High Court. (2 copies)

+1 CC to M/s.R.Sreevidya, Advocate sr 75440.

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PPA(CO)  
SP(03/12/2018)