



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.10.2018

CORAM:

THE HONOURABLE Mrs. JUSTICE S. RAMATHILAGAM

C.M.A.No.982 of 2006
and
C.M.P.No.3904 of 2006

The Oriental Insurance Co. Ltd.,
Branch Office,
No.59, Raja Street,
Gobichettipalayam - 638 476. ...Appellant/3rd Respondent

Versus

1.Rajagopal
2.Sakthivel
3.K.Sivagami ...2nd & 3rd Respondents/
1st and 2nd Respondents

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988, against the Award and Decree dated 02.09.2003 made in M.C.O.P.No.570 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Judge), Bhavani, Erode District.

For Appellant : Mr.R.Sivakumar

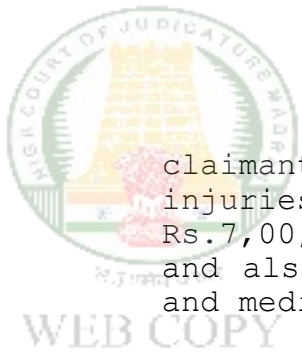
For Respondents : Mr.R.Neelakandan
R2-Given up
R3-Not ready Notice

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Award and Decree dated 02.09.2003 made in M.C.O.P.No.570 of 2001 on the file of the Motor Accident Claims Tribunal (Sub Judge), Bhavani, Erode.

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

On 25.10.2001 at about 11.00 p.m., when the claimant was proceeding in his Yamaha Motor Cycle on the left side of the Anangoor Road, at that time the first respondent, who drove the Maruthi Car bearing Registration No.TAL-2323, on the same direction in a rash and negligent manner, hit against the



claimant and caused grievous injuries over his head and multiple injuries all over the body. The claimant has claimed a sum of Rs.7,00,000/- as compensation for the injuries sustained by him and also for the disability, pain and suffering, loss of income and medical expenses.

3. The Insurance Company, in the counter statement, has stated that there is no fault on the part of the first respondent and the accident was also reported to police on 25.10.2001 by one Manickam, who did not identify the accused. Hence, the said accident was not occurred due to hit by the said Car bearing Registration No.TAL-2323. It is further stated that the claimant himself had invited the accident by his careless and negligent driving, without following the traffic rules. The other aspects, regarding the claim made by the claimant under various heads, were also denied.

4. The Tribunal, after analyzing the evidence and documents placed before it, has given a finding that the accident occurred only due to the rash and negligent driving on the part of the first respondent and awarded a sum of Rs.6,01,719/- as compensation under various heads as follows :

Heads	Sum Awarded by the Tribunal (Rs.)
For Loss of Income (1500*12*18)	3,24,000.00
For pain and suffering	25,000.00
For Nourishment	15,000.00
For Transport expenses	1,000.00
For Medical expenses	2,36,719.00
TOTAL	6,01,719.00

Aggrieved against the said award, the Insurance Company has preferred this appeal.

5. In the grounds of appeal, the appellant/Insurance Company has raised the issue that the sum awarded by the Tribunal as compensation at Rs.6,01,719/- is highly excessive. The further grievance raised by the appellant is that the accident was caused due to the rash and negligent driving on the part of the driver of the car, which aspect was not considered by the Tribunal. It is also the grievance of the appellant that the sum awarded by the Tribunal in respect of disability, medical expenses and pain and suffering were also highly excessive and without any basis.



6. On a perusal of the records, it is seen that the claimant had sustained severe injuries especially, the head injury, which is very much observed from Ex.P2-Wound Certificate. Further, it is also very clear from the medical bills Ex.P7 produced before the Tribunal that the claimant was under treatment as inpatient for a long period from 27.11.2001 to 14.02.2002. Ex.P8-Permanent Disability Certificate also reveals the fact that the claimant has sustained 60% permanent disability, that apart of the head injury his memory power was very much affected. It is also seen that due to the permanent disability sustained by the claimant, he is unable to continue his business using powerlooms and his monthly earning of Rs.10,000/- was also very much affected and incurred heavy loss of income.

7. On perusal of the award passed by the Tribunal, it is seen that the Tribunal, after analysing the evidence and documents, nature of injury, etc., fixed the monthly income at Rs.2,500/- and determined the loss of income by applying proper multiplier and arrived at the sum at Rs.3,24,000/- which is very much reasonable. Further, the sum awarded by the Tribunal under the head 'pain and suffering' at Rs.25,000/- is also proper. By considering the period of treatment and the inconvenience caused to the claimant/injured person due to his health condition, the sum awarded for nourishment at Rs.15,000/- is justifiable. The sum awarded for transport expenses at Rs.1,000/- is also very much reasonable and on the whole, the sum assessed by the Tribunal for determining the loss of income and other relevant heads are very much reasonable and proper and hence the award passed by the Tribunal does not require any interference, the award passed by the Tribunal is confirmed.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

9. Accordingly, the appellant/Insurance Company is directed to deposit the entire award passed by the Tribunal, with interest and costs as apportioned by 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 award amount to the claimant's bank accounts through RTGS within one week thereon.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

lpp



To

1. The District Judge,
The Motor Accident Claims Tribunal/
First Additional District Court,
Erode.

copy to

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

+1 cc to Mr.R.Sivakumar Advocate sr71697
+1 cc to Mr.R.Neelakandan Advocate sr72351

C.M.A.No.982 of 2006
and
C.M.P.No.3904 of 2006

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