

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.09.2018

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. No.637 of 2008

M/s United India Insurance
Company Limited,
139, Kumaran Road,
Tirupur

.. Appellant

-vs-

1. P. Jayakumar
2. P.Chinnaswamy

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accidents Claims Tribunal Subordinate Judge), Tiruppur in M.C.O.P.No.67 of 2001, dated 30.10.2006.

For Appellant : Mr.S.Arunkumar

For respondents: R1- tapal rettd.
R2 - Exparte

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the Award dated dated 30.10.2006 passed by the Motor Accident Claims Tribunal, (Subordinate Judge) at Thiruppur in MCOP. No.67 of 2001.

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

(i) The 1st respondent sustained injuries on 25.11.2000, as a result of an accident caused by a van bearing Registration No.TN-39-A-3700 owned by the 2nd respondent and insured with the appellant.

(ii) The 1st respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.67 of 2001 seeking a compensation of Rs.5 lakhs.

(iii) The Motor Accident Claims Tribunal, by its Award dated 30.10.2006 in MCOP.No.67 of 2001 directed the appellant to pay the 1st respondent a sum of Rs.2,99,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

(iv) Aggrieved by the Award dated 30.10.2006 passed in MCOP.No.67 of 2001, the instant appeal has been filed.

3. Heard Mr.S.Arunkumar, learned counsel for the appellant. Till date, notice has not been served on the 1st respondent. Since the appeal pertains to the year 2008 and this Court is going to confirm the Award, there is no necessity to serve the notice on the 1st respondent.

4. According to the learned counsel for the appellant, the tribunal has erred in awarding Rs.1,80,000/- to the 1st respondent for the alleged disability of 29% and the disability was also not assessed in accordance with schedule 1 of Workmen's Compensation Act.

5. This Court after having considered the materials available on record and after examining the impugned award observes the following:

(a) The 1st respondent has sustained grievous injuries resulting in fracture in his left leg, left knee, left ankle joint and injuries all over the body. The 1st respondent was a partner in Thiruppur Trading Corporation, Thiruppur earning a monthly income of Rs.5,000/- at the time of accident.

(b) The 1st respondent has also filed seven documents before the tribunal which were marked as Ex.P.1 to Ex.P.7 and the documents included the discharge summary from the hospital, wound certificate, disability certificate and medical bills.

(c) The 1st respondent has also examined four witnesses on his side before the tribunal including himself, his Doctor and eye witnesses. The tribunal has considered both oral and documentary evidence and only thereafter, has passed the impugned award.

(d) No contra evidence has been produced by the appellant before the tribunal to disprove the claim of the 1st respondent. The tribunal has also given a clear finding that only due to the rash and negligent driving by the driver of the insured vehicle, the accident had happened.

6. Considering all these factors, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the appeal is dismissed. Connected MP.No.1 of 2008 is closed.

7. In the result,

(i) the appeal is dismissed. No costs.

(ii) the award passed by the tribunal is confirmed.

(iii) the appellant insurance company is directed to deposit the amount awarded by the tribunal along with interest, less the amount, if any, already deposited, to the credit of MCOP.No.67 of 2001 within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the 1st respondent is permitted to withdraw the same on filing necessary application.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msr
To

1. The Motor Accidents Claims Tribunal Subordinate Judge),
Tiruppur
2. The Record Clerk,
VR Section,
High Court,
Madras.

+lcc to Mr.S.Arunkumar, Advocate Sr.67943

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