

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1553 of 2011 and
M.P.No.1 of 2011

The National Insurance Company Ltd.,
Nagapur Branch, Dharmapeth,
Lakshmi Bhavan Square,
Nagapur. ... Appellant/2nd Respondent

...Vs...

1.Ravi
2.Jagir Singh ... Respondents/Petitioner/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 30th November 2010 made in M.C.O.P.No. 684 of 2005 on the file of Motor Accidents Claims Tribunal (Fast Track Court), Namakkal.

For Appellant : Mr.S.Udyasankar

For Respondents : R2 - Exparte
Mr.M.Selvan for
Mr.V.Ravichandran for R1

JUDGMENT

The appellant is the National Insurance Company Limited, Nagapur. The first respondent/claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 in M.C.O.P.No.684 of 2005 before the Motor Accidents Claims Tribunal (Fast Track Court), Namakkal seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 12.12.2003.

2.The brief case of the first respondent/claimant is as follows:

On 12.12.2003 at about 03.30 pm, the first respondent/claimant was driving his lorry bearing Registration No. TN 45 6687 near Gudki Bridge on Hyderabad - Nagpur National Highways. At that time, a speeding lorry bearing Registration No. CG 04 6055 hit the lorry bearing Registration No. TN 45 6687 driven by the first respondent/claimant, as a result of which, the first respondent/claimant sustained grievous injuries. He was immediately rushed to the Gudir Government Hospital, Linganghat and then shifted to Ganga Hospital, Coimbatore.

3. According to the first respondent/claimant, the rash and negligent driving of the driver of the lorry bearing Registration No. CG 04 6055 was the cause of the accident and that since the said vehicle was insured with National Insurance Company Limited, Nagpur both of them are jointly and severally liable to pay compensation to him.

4. Pending claim petition before the Tribunal the present appellant filed a petition to implead M/s.Oriental Insurance Company Limited, Nagpur since the previous owner of the offending vehicle namely the lorry bearing Registration No.CG 04 6055 insured his vehicle with M/s.Oriental Insurance Company Limited for the period covering 12.12.2003, the date of accident. The said petition was dismissed by the Tribunal as against which the present appellant filed C.R.P.No.2217 of 2011 before this Court. The CRP was also dismissed by a single bench of this Court vide its order dated 01.08.2017, holding that it is not open to the appellant Insurance Company to contend that M/s.Oriental Insurance Company Limited is also a necessary party in the claim petition.

5. The present appeal is filed by the National Insurance Company Limited, Nagapaur questioning the quantum of compensation awarded by the Tribunal. It is also contended that M/s.Oriental Insurance Company Limited is also liable to pay the compensation amount to the first respondent/claimant.

6. Since the petition filed by the present appellant to implead M/s.Oriental Insurance Company Limited was dismissed by the Tribunal and subsequently, the said decision was upheld by this Court, I do not find any merits in the arguments advanced by the learned counsel appearing for the appellant that M/s.Oriental Insurance Company Limited should also be directed to pay the award amount as co-insured.

7. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has considered various aspects before awarding a sum of Rs.1,72,300/- to the first respondent/claimant for injuries sustained by him in a road accident that took place

on 12.12.2003 and by any stretch of imagination it can be said to be on the higher side.

8.It is also pertinent to point out that the first respondent/claimant did not file any cross objection or appeal questioning the quantum of the compensation awarded by the Tribunal.

9.In the facts and circumstances, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

rna/mbi

To

1. The Motor Accidents Claims Tribunal
The Fast Track Court, Namakkal.

2. The Section Officer, VR Section,
High Court, Madras.

+1cc to Mr.M.Selvam, Advocate SR.No.85031

+1cc to Mr.V.Ravichandran, Advocate SR.No.85960

+1cc to Mr.G.Udayasankar, Advocate SR.No.84812

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NM(CO)
GMY(06/02/2019)

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