

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.267 of 2011 &
M.P.No.1 of 2011

The Divisional Manager,
M/s.United India Insurance Company Ltd.,
No.16, 1st floor,
J.N.Street, Puducherry-1. ..Appellant/2nd Respondent

..Vs..

1.Doss ..1st Respondent/Petitioner
2.Ramani Boopathy ..2nd Respondent/1st Respondent
(R-2 Set exparte in Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 18-08-2010 made in MACT OP No.1184 of 2007 on the file of Motor Accident Claims Tribunal (III Additional District Judge) at Puducherry.

For Appellant : Mr.D.Bhaskaran

For R1 :Mr.P.Nethaji
R2 set exparte

J U D G M E N T

The instant appeal has been filed by the Appellant insurance company challenging the Award dated 18.08.2010 passed by the Motor Accident Claims Tribunal, (III Additional District Judge at Puducherry) in MACT O.P.No.1184 of 2007.

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

2. The first respondent sustained injuries as a result of an accident that took place on 12.01.2007 caused by an Ambassador Car bearing registration No.PY-01-H-0045 owned by the second respondent and insured with the Appellant. The first respondent preferred a claim before the Motor Accident Claims Tribunal in MACT O.P. No.1184 of 2007 seeking a compensation of Rs.5,00,000/-. The Motor Accident Claims Tribunal by its Award

dated 18.08.2010 directed to Appellant to pay the first respondent a sum of Rs.1,84,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the Award dated 18.08.2010 passed in MACT. O.P.No.1184 of 2007, the instant appeal has been filed by the Appellant/Insurance Company.

4. Heard Mr.D.Bhaskaran, learned counsel for the Appellant and Mr.P.Nethaji, learned counsel for the first respondent. The second respondent being the owner of the insured vehicle has remained exparte both before the Tribunal as well as this Court.

5. According to the learned counsel for the Appellant, there was a delay in registering an First Information Report against the driver of the insured vehicle. According to the learned counsel for the Appellant, the accident happened on 12.01.2007 whereas the First Information Report was registered only on 22.03.2007. According to the learned counsel for the Appellant, this fact was not duly considered by the Tribunal under the impugned Award before fastening the liability on the Appellant.

6. The learned counsel for the Appellant would further contend that the Tribunal failed to consider Ex.A5 Accident Inspection Report of the insured vehicle dated 18.05.2007. According to the learned counsel for the Appellant, the Ambassador car was insured with the Appellant and it was inspected on 27.07.2007 whereas the accident happened much earlier on 12.01.2007 and therefore, the involvement of the said vehicle in the alleged accident was not established by the first respondent before the Tribunal.

7. Per contra, the learned counsel for the first respondent would submit that the first respondent has filed 13 documents before the tribunal which were marked as Exs.A1 to A13 and also examined 2 witnesses on his side namely the first respondent himself as well as his Doctor. The documents marked as exhibits on the side of the first respondent included the First Information Report, Insurance Policy, Accident register, Discharge slip issued by the Government General Hospital, Puducherry, the Accident inspection report marked through PW1, Wound certificate, Discharge summary issued by the Bone and Joint hospital, Chennai marked through PW1.

8. According to the learned counsel for the first respondent, the Discharge summary issued by the hospital as well as the Accident inspection report clearly reveals that the insured vehicle was involved in the accident which resulted in the injuries sustained by the first respondent. Further, the

learned counsel for the first respondent would submit that no contra evidence has been produced by the Appellant before the tribunal to disprove the claim of the first respondent.

9. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:-

a. The first respondent was hospitalised on the same date of the accident i.e., on 12.01.2007 and the First Information Report has been registered only against the driver of the insured vehicle. The delay in registering the FIR is inconsequential as the first respondent was hospitalised on the same date of accident itself.

b. The Discharge summary which was marked as Ex.A9 would reveal that only due to the road accident, the first respondent sustained injuries and a car was involved in the said accident.

c. The first respondent has filed 13 documents which were marked as Exs.A1 to A13 before the tribunal and also examined 2 witness namely himself as well as his Doctor. On the side of the Appellant, no document has been filed and no witness was examined before the tribunal. Therefore, it is clear that no contra evidence has been produced by the Appellant before the tribunal to disprove the claim of the first respondent that only due to the accident caused by the Ambassador car insured with the Appellant, the accident had occurred which resulted in injuries sustained by him.

d) The tribunal under the impugned award has awarded a total compensation of Rs.1,84,000/- comprising of Rs.73,500/- towards 49% Disability, Rs.20,000/- towards Pain and suffering, Rs.47,000/- towards Medical Expenses, Rs.10,000/- towards Transportation charges, Rs.30,000/- towards Loss of earnings, Rs.2,500/- towards Extra Nourishment Charges and Rs.1,000/- towards Clothing. Even though the Appellant was questioning the assessment of compensation in this appeal, this Court is of the considered view that the compensation awarded to the first respondent under various heads under the impugned award is a just compensation.

e) The award passed by the tribunal under the impugned Award is a reasoned and well considered Award and therefore, does not call for any interference by this Court.

10. In the light of the above observations, there is no merit in the instant appeal. Accordingly, the appeal is dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

11. The learned counsel for the Appellant represented that the amount awarded by the tribunal together with interest has already been deposited by the Appellant. The first respondent is permitted to withdraw the amount deposited by the Appellant by filing an appropriate application.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ggi/nl

To

1.The Motor Accidents Claims Tribunal,
(III Additional District Judge) at Puducherry.

2.The Record Clerk, VR Section,
High Court, Madras.

+ 1 cc to MR.D. Baskaran, Advocate Sr.69374

C.M.A.No.267 of 2011 &
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CA(CO)
EU(29/11/2018)



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