

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1800 of 2008

The National Insurance Co. Ltd.,
Chennai.

...Appellant/2nd Respondent

Vs

1.K.Malaikannan1st Respondent/Petitioner

2.J.Selvi
...2ndRespondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.V, Thiruvallur District in M.C.O.P.No.300 of 2004 dated 25.10.2006.

For Appellant : Mr.J.Chandran

For Respondents : Notice returned for R1 & R2

JUDGEMENT

The instant appeal has been filed challenging the Award dated 25.10.2006 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.V, Thiruvallur District in M.C.O.P.No.300 of 2004.

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

(i)The first respondent sustained injuries, as a result of an accident caused by a Mahindra van bearing Registration No.TN-04-Y-7585 owned by the second respondent and insured with the Appellant. The first respondent preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.300 of 2004, seeking compensation of Rs.3,00,000/-.

(ii) The Motor Accidents Claims Tribunal, by its Award dated 25.10.2006 in M.C.O.P.No.300 of 2004 directed the Appellant to pay the first respondent a sum of Rs.1,05,000/- together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 25.10.2006 in M.C.O.P.No.300 of 2004, the instant appeal has been filed by the Insurance Company.

4. Heard, Mr.J.Chandran, learned Counsel for the Appellant. Despite the name of the Counsel for the first respondent being printed in the cause list today, none appears on the side of the first respondent.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the quantum of compensation awarded to the first respondent under the impugned Award is excessive and not in accordance with the settled principles of law.

6. According to the learned Counsel for the Appellant, the Tribunal has erroneously assessed the permanent disability of the first respondent at 50%, even though the first respondent has sustained only hip bone fracture.

7. Further, he would contend that without any basis, the Tribunal has awarded a sum of Rs.25,000/- towards future medical expenses for the first respondent. The learned Counsel further contended that the compensation awarded under various other heads are also excessive.

8. This Court, after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the learned Counsel for the Appellant observes the following:

a) The nature of injuries sustained by the first respondent is not disputed by the Appellant. Admittedly, the first respondent has sustained fracture in the pelvis region and has also sustained multiple injuries all over the body.

b) The first respondent has filed a disability certificate which is marked as Ex-P6 before the Tribunal to confirm that the first respondent has suffered 50% permanent disability as a result of the accident.

c) No contra evidence has been placed before the Tribunal by the Appellant to disprove the disability suffered by the first respondent. Even though the disability certificate discloses 50% disability, the Tribunal has assessed the disability only at 40%.

9. In his claim petition, the first respondent has disclosed that he was a Tea Master earning Rs.200/- per day and was aged 29 years at the time of the accident. The Tribunal has assessed the monthly income of the first respondent at Rs.3000/-. No contra evidence has been produced by the Appellant before the Tribunal to disprove the claim of the first respondent.

10. Considering the nature of the injuries sustained by the first respondent and his avocation, this Court is of the considered view that the Award of Rs.1,05,000/- as compensation awarded by the Tribunal to the first respondent is a just compensation. Therefore, there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently the Connected Miscellaneous Petition No.1 of 2008 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arb/msr

To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.V,
Thiruvallur District.

+1cc to Mr.J.Chandran, Advocate, S.R.No.61682

C.M.A.No.1800 of 2008

SJ(CO)
GSP(23/10/2018)

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