



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.1075 of 2014

Hannah Susila Morris

... Appellant/2nd respondent

Vs.

1.Leela Bai

... 1st respondent/Petitioner/Claimant

2.B.Manikandan

3.The United India Insurance Company Ltd.,
Nagercoil.

... Respondents 2 & 3 /Respondents 1 & 3

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award passed in M.C.O.P.No.22 of 2012 on the file of Motor Accident Claims Tribunal cum Principal Subordinate Judge, Nagercoil, dated 03.03.2014.

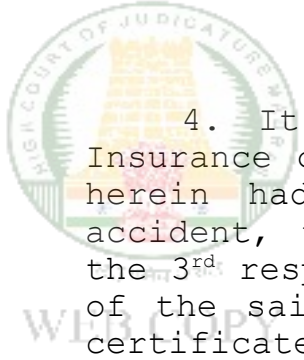
For appellant	:	Mr.V.Raghavachari
For 1 st respondent	:	Mr.B.Christopher
For 3 rd respondent	:	Mr.C.Jawahar Ravindran

JUDGMENT

Heard the learned counsel appearing for both sides and perused the records carefully.

2. It is a case of injury. The manner of the accident is not in dispute. The appellant is the owner of the vehicle. The second respondent herein is the driver of the vehicle. The appellant has filed this appeal questioning the liability as well as quantum.

3. The learned counsel appearing for the appellant would submit that without any valid document, the Tribunal has erroneously held that the second respondent herein drove the vehicle in drunken mood and caused the accident, and thereby, directed the third respondent / Insurance Company to pay and recover from the appellant and the second respondent herein. Therefore, the pay and recovery ordered by the Tribunal is liable to be set aside. He would further submit that for the simple injuries, the Tribunal has awarded a sum of Rs.3,09,312/- and the same is on the higher side and therefore, the award passed by the Tribunal is liable to be reduced. Thus, he prayed to allow the appeal.



4. It is contended on the side of the third respondent / Insurance company before the Tribunal that as the second respondent herein had driven the vehicle in drunken mood and caused the accident, there is a violation of policy condition and therefore, the 3rd respondent is not liable to pay the compensation. In support of the said contention, the third respondent had produced medical certificate given by one Dr.Ramesh, Government Hospital, Kuzhithurai - Ex.R2. It is seen from the record that Ex.R2 was obtained on the date of the accident. In Ex.R2, It has been stated that "consumed liquor, but is not under influence. Not willing for blood and urine examination." The second respondent, who was the driver, has not denied the same by entering into the witness box or by producing any document. The Tribunal, after analysing the same, has ordered for pay and recovery from the appellant and the second respondent. This Court does not find any reason to interfere with the same.

5. So far as the award passed by the Tribunal is concerned, it is seen from the record that the injured had sustained three grievous injuries and four simple injuries, and the Tribunal has awarded only Rs.34,000/- towards the injuries. So far as the other heads are concerned, this Court is of the view that the Tribunal has awarded only a reasonable amount and hence, the same need not be interfered with. Thus, viewing from any angle, the award passed by the Tribunal is liable to be confirmed.

6. In the result, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. No costs.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

- 1.The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Nagercoil.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.V.Raghavachari, Advocate SR.No. 69624
+1cc to M/S.C.Jawahar Ravindran, Advocate SR.No. 69933
+1cc to M/S.B.Christopher, Advocate SR.No. 69999

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