

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 14.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.M.A(MD) .No.1789 of 2013****and****M.P. (MD) .No.3 of 2013**

The Manager,
National Insurance Company Limited,
78, Thiruvenkatasamy Chetty Street,
Erode.

... Appellant/2nd respondent

Vs.

1.Ravichandran

... 1st respondent/ Petitioner

2.V.P.Shanmuga Sundaram

... 2nd respondent/ 1st respondent(Notice to the 2nd respondent is dispensed with)

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award passed in M.C.O.P.No.97 of 2012, dated 18.09.2012, on the file of Motor Accident Claims Tribunal / District Judge, Karur.

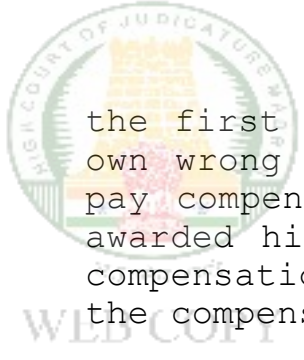
For appellant : Mr.J.S.Murali

For 1st respondent : Mr.K.Sureshkumar**JUDGMENT**

Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the first respondent / Claimant.

2. It is a case of injury. The manner of the accident is not in dispute. The appellant / Insurance Company has filed this appeal questioning the liability and quantum.

3. The learned counsel appearing for the appellant / Insurance Company would submit that the FIR registered against the driver of the 2nd respondent's vehicle, who was alleged to have driven the vehicle rashly and negligently and dashed against the first respondent / claimant, was closed as "mistake of fact" and hence,



the first respondent / claimant cannot claim compensation for his own wrong and the appellant / Insurance company is not liable to pay compensation. He would further submit that the Tribunal has awarded high sum under various heads, which are not warranted as compensation in the facts and circumstances of the case and hence, the compensation amount awarded by the Tribunal may be reduced.

4. The learned counsel appearing for the first respondent / claimant would submit that though the case filed against the driver of the vehicle has been closed as mistake of fact, the same cannot put against the claimant and prohibit the claimant to claim compensation. He would further submit that before the accident, the first respondent / claimant was working as driver in the Tamil Nadu State Transport Corporation and earning a sum of Rs.14,500/- p.m. and due to the injuries in the accident, he sustained 30% disability and hence, he could not continue his profession and he lost his earning capacity. But, the Tribunal has awarded only a sum of Rs.2,000/- for per percentage of disability, which is very meagre. He would further submit that the Tribunal has also awarded only very meagre amount on the other heads. Thus, he prayed not to interfere with the award passed by the Tribunal.

5. It is a settled law that the result of the criminal case is not binding upon the Claims Tribunal. The Tribunal is expected to peruse the oral and documentary evidence that is adduced before it and come to an independent conclusion. Here, in this case, the Tribunal has rightly dealt with the case and after considering the oral and documentary evidence adduced before it, has awarded the compensation and accordingly, the appellant / Insurance Company is liable to pay the compensation to the first respondent / claimant. Hence, the first contention of the learned counsel for the appellant / Insurance Company with regard to the liability is rejected.

6. So far as the quantum of compensation is concerned, it is seen that as rightly stated by the learned counsel for the first respondent / claimant, the Tribunal has awarded only a meagre sum. Further, the first respondent / claimant has not filed appeal for enhancement of compensation. Hence, this Court is of the view that the award passed by the Tribunal need not be interfered with.

7. In view of the above, this Civil Miscellaneous Appeal is dismissed. The award passed by the Tribunal is confirmed. The appellant / Insurance Company is directed to deposit the entire award amount with accrued interests and costs, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the first respondent / claimant is permitted to withdraw the deposited amount with accrued interests and costs without filing any formal petition before the Tribunal. No costs. Consequently, connected



miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

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Sub Assistant Registrar

To

The District Judge,
Motor Accident Claims Tribunal,
Karur.

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

- + 1 cc TO Mr.J.S.Murali , Advocate in SR No. 68364
- + 1 cc TO Mr.K.S.Suresh Kumar , Advocate in SR No. 68414

gcg

AE/SV/SAR3/05.07.2018/3P/6C

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