

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

C.M.A.No.2579 of 2003

Ramesh ... Appellant/3rd respondent

..vs..

1.Narayanan ...1st respondent/ Petitioner
2.Suseela ..2nd &3rd respondent/1st &2nd respondent
3.Oriental Insurance Company
Pondy.
4.New India Assurance Company
Cuddalore. ...4th Respondent
(2nd appellant is transposed as 4th respondent
vide order of this Court dated 05.11.2003
made in CMP No.15555 of 2003)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 03.01.2003, made in M.AC.T.O.P.No.820 of 1999 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Cuddalore.

For Appellant : Mr. K.Padmanabhan

For Respondents : Mr.R.Sathiya Kumar - for R1
No appearance - for R2
Mr.S.Veeraraghavan - for R3
Mr.V.Jaganathan - for R4

JUDGMENT

The facts of the case are that on 21.12.1997 at about 10.30p.m., the first respondent / claimant was travelling as a pillion rider in the Hero Honda motorcycle bearing Reg.No.PY-01-A-9992, owned by the appellant herein and insured with the fourth respondent Insurance Company. At that time, the car bearing Reg.No.PY-01-B-4199 belonging to the second respondent and insured with the third respondent Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against the two-wheeler. Due to the impact, the first respondent/claimant sustained grievous injuries. He filed a claim petition before the Tribunal for compensation to the injuries sustained. As against the claim made for a sum of Rs.7,00,000 lakhs, the Tribunal has awarded a sum of Rs.3,41,260/- with interest at the rate of 9% per annum from

the date of petition, after fixing the negligence on the part of the drivers of both the vehicles and accordingly directed both the insurance companies to pay the compensation at the ratio of 50:50 to the first respondent.

2.Challenging the 50% negligence fixed on the driver of the two-wheeler, the owner of the two-wheeler has come up with this appeal.

3.Learned counsel for the appellant has submitted that the Tribunal has erred in giving a finding that the driver of the two-wheeler has also equally contributed to the accident. It is also submitted that the compensation awarded by the Tribunal is excessive.

4.The learned counsel for the fourth respondent has also made his arguments in the similar lines as argued by the learned counsel for the appellant.

5.This Court has also heard the arguments advanced by the learned counsel for the first and third respondents and perused the materials available on record.

6.It is seen that P.W.1-Claimant has deposed before the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the car. Even as per Ex.P1- FIR, it is seen that the accident had occurred due to the rash and negligent driving of the driver of the car. But the Tribunal, considering the facts and circumstances of the case, has given a finding that the accident had occurred due to the rash and negligent driving of the driver of the car as well as the rider of the motorcycle, which finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation, since no documentary evidence has been produced to show that the claimant was earning a sum of Rs.5,000/- by doing business, the Tribunal has fixed the monthly income of the claimant at Rs.3,000/-, adopted the multiplier of '18' and calculated the loss of income at Rs.1,94,400/-. The Tribunal has also awarded a sum of Rs.61,860/- towards medical expenses, Rs.75,000/- towards Pain and suffering and Rs.10,000/- towards future medical expenses. The Tribunal has correctly considered the materials and evidence and adopted the correct multiplier and arrived at the compensation towards loss of income. The amounts awarded towards other heads are also just and very reasonable and hence the same are confirmed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The respondent insurance companies are directed to deposit their respective compensation amount with interest and costs, as awarded by the Tribunal, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such

deposit being made, the first respondent/claimant is permitted to withdraw the same, after deducting the amount if any already withdrawn, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KST

To

1. Motor Accident Claims Tribunal,
Principal Sub Judge, Cuddalore.

2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104

+lcc to Mr.K.Padmanabhan, Advocate SR.No. 71748

C.M.A.No.2579 of 2003

A.SK(20/07/2020)