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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM :

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

C.M.A.No.1286 of 2006

United India Insurance Co. Ltd.
Motor Third Party Claims Office
No.38, Anna Salai,
Chennai - 600 002.

... Appellant

Vs.

1.M.Raji
2.E.Rajan

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.161 of 2003 dated 29.10.2004 on the file of the Motor Accident Claims Tribunal (Fast Track Court No.III), Poonamallee.

For Appellant : Mr.C.R.Krishnamoorthy

For R1 : No appearance

For R2 : Mrs.K.Vasanthamala
for Mr.UM.Ravichandran

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the Insurance Company against the judgment and decree passed in M.C.O.P.No.161 of 2003 dated 29.10.2004 on the file of the Motor Accident Claims Tribunal (Fast Track Court No.III), Poonamallee.

2.The facts of the case would run thus :

On 06.11.2002, when the 2nd respondent herein was walking in the Perumbakkam Main Road on the left side, a lorry bearing Registration No.TDL-7610 belonging to the 1st respondent hit the 2nd respondent in a rash and negligent manner. Due to the said impact, the 2nd respondent sustained grievous injuries. The 2nd respondent later filed a claim petition before the Tribunal, which awarded a compensation of Rs.6,14,700/- with interest @ 9% p.a. from the date of petition.



3.Challenging the judgment and decree of the Tribunal, the present appeal has been filed by the Insurance Company.

4.The learned counsel for the appellant Insurance Company has submitted that there is contributory negligence on the part of the 2nd respondent also, in crossing the road from North to South direction. He also submitted that in the absence of any evidence in respect of the income of the 2nd respondent, the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the 2nd respondent /claimant has submitted that the Tribunal has considered all the material evidences and awarded the compensation, which is just and reasonable and hence, the judgment of the Tribunal has to be confirmed.

6.Heard the learned counsel on either side and perused the materials available on record carefully.

7.The claimant, in his evidence has deposed that on 06.11.2002 at about 06.00 p.m., he came out from Maruti Paint Company, where he was working, and after going to a shop, returned by walk on the side of the road along with his co-employee Kannan and at that point of time, a lorry came from the back side and hit him, due to which, he was thrown out and because of the accident, he sustained fractures and grievous injuries.

8.The Tribunal, upon perusal of the First Information Report marked as Ex.P1, Ex.P3 (copy of the judgment of the Criminal Court), Ex.P4 (Case Sheet) and all other exhibits, concluded that, only the lorry driver caused the accident, by proper reasoning, which, this Court is not inclined to interfere.

9.With regard to the quantum of compensation, by considering Ex.P7 (Disability Certificate) given by a hospital at K.K.Nagar, the Tribunal came to the conclusion that the claimant suffered 90% disability and accordingly, awarded a sum of Rs.90,000/- towards that head. The Tribunal has also adopted the proper multiplier of 16 and correctly calculated the future loss of income at Rs.2,88,000/-. The amounts awarded towards other heads are also very reasonable.

10.In view of the above stated circumstances, the Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs.



11.The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Additional District Judge,
Fast Track Court No.III,
Poonamallee.

2.The Section Officer,
VR Section, High Court of Madras.

+1cc to Mr.C.R.Krishnamoorthy, Advocate SR.No.45556

+1cc to Mr.UM.Ravichandran, Advocate SR.No.45557

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SPD(CO)
GMY(03/09/2019)