

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 21.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1370 of 2006 and

C.M.P.No.6032 of 2006

HDFC-CHUBB General Insurance Co. Ltd.,
Express Towers 5th floor, Nariman Point
Mumbai-400 021(policy Cum Certificate
No. VM 00055002000/00 for the period from
26.09.2003 to 25.09.2004. Appellant/2nd Respondent

Versus

1.P.Ramasamy1st Respondent/Claimant

2.Sadanandan 1st Respondent/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act,1988 against the Judgment and Decree of the learned Motor Accidents Claims Tribunal (III Additional Sub-Judge) Coimbatore made in M.A.C.T.O.P.No.868 of 2004 dated 21.07.2005.

For Appellant :Mr.K. Surya Narayanan

For Respondents :Mr.S.Kumaresan
Legal Aid Counsel

J U D G M E N T

This appeal has been filed against the Judgment and Decree of the learned Motor Accidents Claims Tribunal (III Additional Sub-Judge) Coimbatore made in M.A.C.T.O.P.No.868 of 2004 dated 21.07.2005.

2. On 04.03.2004 at about 1:30 p.m at Avinashi Road, the second respondent herein was travelling as a pillion rider in the motor cycle of the first respondent, bearing registration No.T-N-38-U-5069. At that point of time the first respondent herein had accelerated the motor cycle into much higher speed and drive the vehicle in a most negligent manner and the motor cycle was skid off and the second respondent herein was thrown out of the vehicle. The accident occurred only due to the rash

and negligent act of the first respondent. In the result the second respondent herein fell down and thereby sustained injuries. Hence, the first respondent herein who is the owner of the vehicle filed M.C.O.P.No.886 of 2004 on the file of Motor Accidents Claims Tribunal, (III Additional Sub-Judge) Coimbatore seeking compensation for a sum of Rs.2,25,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.86,283/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of the learned counsel for the appellant. Even though notice was served to the respondents there is no representation on their behalf hence, the Registry was directed to appoint Legal Aid Advocate Mr. S.Kumaresan, to pursue the matter. Accordingly, the said legal aid advocate was appointed and appeared and argued on behalf of the respondents.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal has applied its mind properly and granted the award with the correct head which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree dated 21.07.2005, in M.C.O.P.No.868 of 2004, on the file of Motor Accident Claims Tribunal (III Additional Sub-Judge) Coimbatore is confirmed.

(b) the appellant/Insurance Company is directed to deposit the amount as directed by the Tribunal, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit the first respondent is permitted to withdraw the amount, by way of filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

8. The counsel, who was appointed and appeared before this Court for the sole respondent is entitled to get a sum of Rs.3,000/- towards his fees which shall be paid by the Legal Aid Services Authority, attached to this Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To.

1.The Motor Accident Claims Tribunal
(III Additional Sub-Judge) Coimbatore.

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

Copy to

The Secretary,
Legal Aid Services Authority,
High Court, Madras.

+1cc to r.K.Suryanarayanan, Advocate SR.16567

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