

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.129 of 2007

M/s. United India Insurance Company Limited
Divisional Manager
Manjakuppam
Cuddalore -1

Appellant / 2nd Respondent

Vs

1.R.P.Pazhani
2.M/s.Pandian Paper Company Limited
No.35, Anderson Street
Chennai - 600 001.

II Respondent /I Respondent

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 09.10.2002 made in MCOP No.930 of 2001 on the file of the Motor Accidents Claims Tribunal/Additional Subordinate Court, Cuddalore.

For Appellant : Mr.S.J.Jagadev
For R2 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award passed by the Tribunal in MCOP No.930 of 2001 on 09.10.2002.

2.The case in brief, is as follows:

On 20.03.2001 at 18.30 hours, when the claimant was riding his Motorcycle in E.C.R. Road, a Car bearing Reg.No.PY 01 F 3666, came in a rash and negligent manner and hit the claimant. Due to the said accident, he sustained grievous injuries and initially he took treatment at Government Hospital, Royapet and further treatment at other Private Hospitals. He filed a claim petition before the Tribunal claiming a compensation of Rs. 7,00,000/- as compensation. On a consideration of the evidence available on record, the Tribunal has awarded a total compensation of Rs.2,95,631/-with interest at the rate of 9% per annum, payable by the 2nd respondent / appellant herein.

3. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4. Despite service of notice to the respondents and their names printed in the cause list, they are not present before this Court. Hence, the appeal is taken up on merits.

5. Heard the learned counsel for the appellant.

6. The learned counsel for the appellant submitted that the Tribunal committed an apparent error in awarding high and excessive compensation in a case of fracture on the right leg of the claimant, who was stated to be a Motorcycle mechanic, aged about 33. He further submitted that the award passed by the Tribunal on the whole, is on the higher side; for fixing the liability, the Tribunal has taken the evidence of PWs 1 and 2 and Ex.P.10 and also taken note of the fact that no document was marked or no evidence was adduced by the appellant herein, before the Tribunal; hence, the award of the Tribunal needs interference by this Court.

7. Upon perusal of the award passed by the Tribunal, it is evident that the Tribunal has taken note of the contents of the First Information Report with the evidence of PW 1 and based in Ex.P.2 Motor Vehicle Inspector's Report, has fixed the liability on the 2nd respondent / appellant herein. The negligence fixed by the Tribunal cannot be faulted, since the same are based on evidence and documents produced with no contra evidence on record.

8. As far as the quantum of compensation awarded by the Tribunal is concerned, though the claimant has claimed Rs.6,000/- as monthly income, in the absence of any documentary proof to establish the same, the Tribunal has taken the monthly income of the claimant at Rs.2,100/-. Further, the Tribunal has applied the multiplier method and calculated the loss of income by adopting the multiplier 17, $\text{Rs.2,100} \times 12 = \text{Rs.25,200/-} \times 17 \times 60/100 = \text{Rs.2,57,040/-}$. Further, the Tribunal has awarded Rs.5,000/- towards pain and sufferings, Rs.3,000/- towards extra nourishment, Rs.30,591 towards medical expenses, thus totalling to Rs.2,95,631/-. The sums awarded by the Tribunal under the above itemization cannot be said to be on the higher side, when compared to the injuries sustained by the claimant and the period of treatment taken by him and other ancillary materials therewith. As such, this Court is of the opinion that the total compensation of Rs.2,95,631/- awarded by the Tribunal is just and reasonable and the same cannot be said to be excessive or exorbitant, warranting interference of this Court.

9. In such view of the matter, the Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. No costs. 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 four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount, to the Savings Bank Account of the claimant / Respondents 1 herein, through RTGS, within one week thereafter.

Sd/-

Asst.Registrar (CS)

/true copy/

Sub Asst. Registrar

To

1. The Motor Accident Claims Tribunal/ Additional Subordinate Judge, Cuddalore.

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

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