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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

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THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.NO.1386 OF 2007

and

M.P.NO.1 of 2007

The Branch Manager
The Oriental Insurance Co. Ltd.
B.R.Annexe, III Floor
No.35, Ramakrishna Street
Tambaram, Chennai 600 045

...Appellant/2nd Respondent

Vs.

1. Annammal ...Defendant No.1/Petitioner
2. R.Ganesh Raj ...Respondent No.2/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the decree and Judgment passed by the Subordinate Judge, Motor Accident Claims Tribunal, Kancheepuram in MCOP No.422 of 2001 dated 30.09.2005.

For Appellant : Mr.M.Rajasekhar

For Respondents : No appearance.

JUDGMENT

The appellant Oriental Insurance Company Limited, Chennai, is the second respondent in MCOP No.422 of 2001 on the file of the Subordinate Judge, Motor Accident Claims Tribunal, Kancheepuram.

2. The first respondent / claimant filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the injuries sustained by her in a road accident that took place on 31.05.2001. According to the claimant, when she was standing near a tea shop on Chennai-Chengalpet GST road, a speeding motor cycle bearing registration No.TN2-T4284 belonging to the first respondent hit her, as a result of which, she sustained injuries all over her



body. Her further contention is that the rash and negligent riding of the rider of the two wheeler was the cause of the accident and that since the said two wheeler was insured with the Oriental Insurance Company Ltd., the present appellant herein, both of them are jointly and severally liable to pay compensation of Rs.3,00,000/- to her.

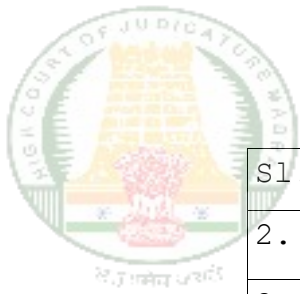
3. The owner of the two wheeler as well as the present appellant contested the claim petition before the tribunal. The tribunal, after analysing the records, awarded a compensation of Rs.92,000/- to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition.

4. Aggrieved over the orders passed by the tribunal, the Oriental Insurance Company Limited, has filed the present appeal under Section 173 of the Motor Vehicles Act 1988.

5. Mr. M. Rajasekhar, learned counsel appearing for the appellant would contend that the accident took place on 31.05.2001 and the FIR was registered on 13.06.2001 after a delay of 14 days and the tribunal did not consider this aspect before awarding a sum of Rs.92,000/- to the claimants. He would further contend that the award passed by the tribunal is also on the higher side.

6. A perusal of the record shows that the claimant was a vegetable vendor and she sustained a fracture on her left leg and immediately after the accident she was admitted as an inpatient in the Government Hospital, Chengalpet. The hospital authorities, usually, would immediately give intimation to the concerned police and the police officials alone should be blamed for not registering FIR as soon as they get intimation from the hospital. It is also seen that the accident is not disputed by the second respondent, the owner of the two wheeler since in his counter he has stated that the rider of the two wheeler rode the vehicle after following all the traffic rules and regulations and that the first respondent alone was responsible for the accident. It is therefore clear that the claimants sustained injuries on account of the accident that took place on 31.05.2001. A perusal of the award passed by the tribunal shows that the tribunal has awarded a just compensation of Rs.92,000/- to the claimant together with interest at the rate of 7.5%. The award passed by the Tribunal under various heads is extracted hereunder.

Sl.No.	Head	Amount (Rs.)
1.	Partial permanent disability	40,000/-



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Sl.No.	Head	Amount (Rs.)
2.	Pain and sufferings	20,000/-
3.	Extra nourishment	10,000/-
4.	Loss of income	20,000/-
5.	Transportation	2,000/-
	Total	92,000/-

7.The claimant is a vegetable vendor and she has sustained fracture on her left leg and by no stretch of imagination, the quantum of compensation awarded by the tribunal can said to be on the higher side. In view of the reasons stated by me, I hold that the appeal is liable to be dismissed.

8. In the result,

(i) The appeal filed by the National Insurance company Limited is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

(ii) The award passed by the Tribunal is upheld.

(iii) The appellant / Insurance Company is directed to pay the entire compensation amount of Rs.92,000/- to the claimant, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, less the amount already deposited by them, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the appellant, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

bga
To,

The Subordinate Judge,
Motor Accident Claims Tribunal, Kancheepuram.



Copy to

The Section Officer,
VR Section, High Court, Madras-104.

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+1cc to Mr.M.Rajasekar, Advocate Sr.8615

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