

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2157, 2158, 3115 and 3116 of 2004
and
C.M.P.Nos.17104 & 17105 of 2004

Divisional Manager,
Oriental Insurance Co. Ltd.,
S.V. Complex, Eswaran Koil Street,
Pondicherry.

.. Appellant in all the
C.M.A No's/2nd respondent

Vs.

1.Sakthivel ..Ist respondent /Petitioner
2.K.Pandurangan
(2nd respondent ex-parte
before the Lower Court

..2nd Respondents in
C.M.A.No.2157 of 2004/
Ist respondent/Petitioner

1.Arunkumar ..Ist respondent/Petitioner
2.K.Pandurangan
(2nd respondent ex-parte
before the Lower Court

..2nd Respondents in
C.M.A.No.2158 of 2004/
Ist respondent

1.Devaki ..Ist respondent/Petitioner
2.K.Pandurangan
(2nd respondent ex-parte
before the Lower Court

..2nd Respondents in
C.M.A.No.3115 of 2004/
Ist respondent

1.Gangadevi ..Ist respondent/Petitioner
2.K.Pandurangan
(2nd respondent ex-parte
before the Lower Court

..2nd Respondents in
C.M.A.No.3116 of 2004/
Ist Respondent

COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.03.2003 made in M.C.O.P.Nos.118, 117, 103 and 132 of 2002 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Cuddalore.

In C.M.A No.2157 of 2004

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.V.Srinivasan

For R2 : Ex-parte

In C.M.A No.2158 of 2004

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.K.Srinivasan

In C.M.A Nos.3115 & 3116 of 2004

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.V.S.Kalyanaraman

For R2 : Ex-parte

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the common award, dated 06.03.2003, made in M.C.O.P.Nos.118, 117, 103 and 132 of 2002 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Cuddalore.

2.Since all the claim petitions arose out of one and same accident, these appeals have been taken together and are being disposed of by this common judgment.

3.On 09.06.1995 at about 05.30 hours, the claimants were travelling as coolie loadmen in a lorry bearing Registration No.TN 23/7656. The said lorry met with an accident by hitting a tamarind tree. As a result of the said impact, the claimants sustained grievous injuries. Immediately after the accident, they were taken treatment, as inpatient, for seven days and thereafter at Jipmer Hospital, Pondicherry at regular intervals. In respect of the injuries sustained by the claimants, they claimed compensation of Rs.1,50,000/-, Rs.25,000/-, Rs.60,000/-

and Rs.1,50,000/- respectively.

4.Before the Tribunal, on the side of the claimants, P.Ws.1 to 6 were examined and Exs.P1 to P12 were marked and on behalf of the appellant/Insurance Company, R.W.1 was examined and Exs.R1 to R5 were marked.

5.The Tribunal, based on the documents produced and evidence available on record, has rendered a finding that the accident had occurred only due to rash and negligent driving on the part of the lorry driver, which was insured with the appellant herein and assessed the compensation at Rs.15,000/-, Rs.6,000/-, Rs.8,000/- and Rs.50,000/- respectively.

6.The learned counsel for the appellant submitted that the award passed by the Claims Tribunal is exorbitant and unsustainable in law and it is against evidence.

7.At the outset, it has to be pointed out that the liability on the insurer was fixed by the Tribunal based on Ex.R1/policy of insurance. The Tribunal has meticulously considered Ex.R1 in detail and has come to the conclusion that the accident had happened only due to the rash and negligent driving on the part of the driver of the lorry and hence, the insurer as appellant is liable to pay the compensation. Hence, fixation of liability on the insurer is based on evidence available on record, which in the considered view of this Court, is sustainable. Also, there is no contra evidence or documents available before this Court to set-aside the said finding. Further, the compensation awarded by the Tribunal under each and every heads by the Claims Tribunal cannot be said to be on the higher side, considering the nature of injuries and period of treatment undertaken by the claimants. That apart, the Tribunal has not awarded any amount towards future medical expenses and loss of enjoyment of amenities. As such, the award granted by the Claims Tribunal would be said to be low and not high.

8.Thus, this Court is of the opinion that the compensation awarded under each and every heads by the Tribunal are reasonable, weight of evidence and based on settled principles.

9.Even assuming that the amount of compensation is lightly higher, considering the fact that the award was passed in the year 2005, the award has now become inadequate considering the lapse of time and the value of money during this time, i.e., (the prices of the commodities are escalated and the value of the money is reduced), the award to be utilized in the year 2019, cannot be said to be excessive.

10.For discussions made above, the Civil Miscellaneous Appeals have no merits and therefore, these Civil Miscellaneous Appeals are dismissed.

11.The appellant / Insurance Company, in each of the above appeals, is directed to deposit the compensation amounts, as awarded by the Claims Tribunal, along with interests and costs 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 Tribunal shall transfer the amount to the respective Savings Bank Accounts of the injured / claimants, through RTGS, within one week thereafter. No costs. Consequently, the connected CMPs are closed.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

srk / gbi
To

1.The Additional District Court,
Motor Accidents Claims Tribunal,
Fast Track Court No.2,
Cuddalore.

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

+4 cc to Mr.S.Kalyanaraman Advocate sr52169,52168,52171
+4 cc to Mr.N.Vijayanarayanan Advocate sr 52943,52940
52941,52942

C.M.A.Nos.2157, 2158, 3115 and 3116 of 2004
and
C.M.P.Nos.17104 & 17105 of 2004

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