

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.06.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.1550 of 2006
& CMP No.6919 of 2006

Oriental Insurance Co. Ltd.,
Salem

...Appellant/2nd Respondent

..vs..

1. Vasantha ...1st Respondent/Petitioner
2. R.Chinnasamy
3. R.Sivakumar
4. National Insurance Company Ltd.,
88-AF Bypass Road, Dharmapuri Town
...2 to 4 Respondents/
Respondents 1,3 and 4

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 01.09.2005 made in M.C.O.P.No.946 of 2003 on the file of the Motor Accident Claims Tribunal, Sub Court, Krishnagiri.

For Appellant : Mr. S.Arunkumar
For Respondents : Mr. P.Mani, for R-1,
Mr. N.Vijayaraghavan, for R-4,
No Appearance, for R-2 & R-3.

J U D G M E N T

The learned counsel appearing for both sides, at the outset, submitted that, in the same road accident that took place at 03.30 pm on 04.02.2001 involving the same vehicles, two claimants, by name, Meena and S.Selammal, filed MCOPs; the said petitions were taken on file and awards have been passed; the said awards were challenged before this Court in CRP (NPD) No.807 of 2004 and CMA (NPD) No.306 of 2003, wherein while passing judgment, this Court has held as follows:-

"15. As rightly contended by the learned counsel for the appellant since the finding of contributory negligence recorded in MCOP No.213 of 2001 by the claims Tribunal has not been challenged by the fourth respondent herein and the said finding has been confirmed by this Court in C.R.P.No.807 of 2004, the fourth respondent is liable to pay 50% of the compensation and accordingly, the award of the Tribunal is confirmed.

16. As far as the quantum of compensation awarded by the Tribunal is concerned, A sum of Rs.1,02,000/- shall be paid equally by the appellant as well as the fourth respondent.

17. The learned counsel for the appellant submitted that entire compensation has been deposited by the appellant to the credit of MCOP No.264 of 2001 and 50% of the award amount has been withdrawn by the first respondent. Therefore, 50% of the award amount is entitled to be withdrawn by the first respondent. Since the appellant has paid the entire compensation instead of 50% as decided by this Court in CMA No.306 of 2003, the fourth respondent - National Insurance Company Limited shall pay its share of 50% to the appellant - Oriental Insurance Company Limited and the fourth respondent - National Insurance Company Limited are entitled to recover the said amount from the third respondent, the owner of the tempo van."

2. Since the manner of accident, vehicles and issue involved in the said CRP (NPD) No.807 of 2004 and CMA (NPD) No.306 of 2003 and this CMA are one and the same, this Court is of the view that the said decision squarely applies to the facts of the case also.

3. As far as the quantum of compensation awarded by the Claims Tribunal is concerned, the same is passed based on probabilities of case and documents produced on either side. Further, the ratio of pecuniary and non-pecuniary damages awarded by the Claims Tribunal, in the case cited supra, as well as the award impugned in this Appeal, are based on nature of injuries sustained and period of treatment taken. Hence, this Court is of the view that the same does not require any interference at the hands of this Court. In such view of the matter, the compensation amount awarded by the Tribunal at Rs.5,10,000/- under the following break-up details is hereby confirmed:-

Heads	Amt. / Rs.
For Injuries	1,50,000/-
Medical expenses	60,000/-
Transportation expenses	4,000/-
Damage to cloths / personal materials	5,000/-
Loss of earning during the treatment period	6,000/-
Loss of future earnings on account of permanent disability	1,50,000/-

Heads	Amt. / Rs.
Future Medical expenses	10,000/-
Pain and sufferings	75,000/-
Total	5,10,000/-

4. The said compensation amount shall be paid equally by the appellant as well as the fourth respondent.

5. The learned counsel for the appellant submitted that entire compensation has been deposited by the appellant to the credit of MCOP No.946 of 2003. Hence, the Tribunal is directed to transfer the said sum, along with accrued interest therefor, to the Savings Bank Account of the claimant / first respondent herein, forthwith, through RTGS. Since the appellant has paid the entire compensation instead of 50% as decided by this Court, the fourth respondent - National Insurance Company Limited shall pay its share of 50% to the appellant - Oriental Insurance Company Limited and the fourth respondent-National Insurance Company Limited is entitled to recover the said amount from the third respondent, the owner of the tempo van.

6. With the above modification, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, the connected CMP is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srk

To

1. Motor Accident Claims Tribunal, Sub Court, Krishnagiri.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

+1 cc to Mr.P.Mani Advocate sr51538

+1 cc to Mr.N.Vijayaraghavan Advocate sr51497

+1 cc to Mr.S.ArunKumar Advocate sr51291

C.M.A.No.1550 of 2006
& CMP No.6919 of 2006

vba(co)

aa30/10/2019