

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1220 of 2005

and

C.M.P.No.6767 of 2005

National Insurance Co. Ltd.,
Branch Office
10/40-E, Rajaji Sreet
Kangeyam.

... Appellant/2nd Respondent

vs.

1.K.Semalaiappan ...1st Respondent/Petitioner
2.S.Selvaraj

(Second respondent was ex parte
before the lower court). ...2nd Respondent/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 20.06.2003 made in M.C.O.P.No.668 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Fast Track Court No.3, Dharapuram, Erode District.

For appellant	:	Mr. N.Vijayaraghavan
For respondent-1	:	Notice not ready
Respondent-2	:	Exparte

JUDGMENT

This appeal has been filed by the National Insurance Company challenging the award dated 20.06.2003 made in M.C.O.P.No.668 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Fast Track Court No.3, Dharapuram, Erode District, stating that the compensation awarded is not in consonance with the facts and circumstances and in a case, where the insured vehicle was fixed by providing fabricated documents for the purpose of the claim.

2. It is the case of the claimant that in a motor accident which took place on 07.06.1999 at about 1.30p.m on Dharapuram to Karur Main Road, near Karaiyur Kaliyamman Temple, he suffered injuries all over the body with fracture in the left leg below knee and he was an agriculturist and earning a sum of Rs.2,500/- per month. The Insurance Company/Appellant herein filed a counter and denied the monthly income, medical expenses

incurred and the manner of accident and further stated that the accident took place solely due to the negligence of the claimant himself. The Tribunal came to the conclusion that the second respondent herein is responsible for the accident and the claimant has sustained only grievous injuries, not sustained any fracture and hence awarded a sum of Rs.120/- for purchasing medicines, Rs.5000/- for taking treatment and Rs.25,000/- for pain and sufferings, transportation, extra-nourishment and loss of income during the treatment period and in total, awarded a sum of Rs.30,120/- as compensation with interest at 9% p.a.

3. The appellant has not taken any steps to serve notice on the claimant/respondent till date. Perusal of the materials on record would show that the Tribunal, based on the FIR, Motor Vehicle Inspector's report, charge sheet filed against the second respondent herein and the confession statement of the second respondent agreeing the accident and paid the fine, came to the conclusion that the second respondent herein is responsible for the accident. Similarly, the Tribunal analysed each and every aspect of the case and found that the claimant is entitled for reasonable compensation. Considering such finding and the reduction in the value of money, this Court is of the view that the award passed by the Claims Tribunal does not require any interference.

4. In fine, the Civil Miscellaneous Appeal is dismissed. The award and decree dated 20.06.2003 made in M.C.O.P.No.668 of 1999 on the file of the Motor Accidents Claims Tribunal, Additional District Fast Track Court No.3, Dharapuram, Erode District, is hereby confirmed. No costs. Consequently, connected CMP is closed.

5. The appellant/Insurance Company is directed to deposit the above amount of compensation with interest and costs, as awarded by the Claims Tribunal, 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 is directed to transfer the said sum to the Savings Bank Account of the claimant/first respondent herein, through RTGS, thereafter.

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

gbi/mra

To

1. Motor Accidents Claims Tribunal,
Additional District Fast Track Court No.3,
Dharapuram, Erode District.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1 cc to Mr.N.Vijayaraghavan Advocate sr50787

C.M.A.No.1220 of 2005
and
C.M.P.No.6767 of 2005

nr(co)
aa03/10/2019



WEB COPY