



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1650 of 2007
& MP No.1 of 2007

The Branch Manager,
New India Assurance Company Limited,
Branch Office, Bypass Road,
Hosur Town

... Appellant/3rd Respondent

..Vs..

1. Chennammal
2. P.Murugesan
3. National Insurance Company Limited,
Bangalore Road, Krishnagiri
(R-3 not necessary party in this
proceeding, hence, given up)

... Respondents/Petitioners/1st Respondent/
2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 17.12.2004 made in MACTOP No.1193 of 1994 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Krishnagiri.

For Appellant : Mr. C.Muniratnam
For Respondents: Mr. V.Kumaravelan, for R-1
Given up, R-3.

J U D G M E N T

As against the claim made for a sum of Rs.15,000/- by the injured / claimant, the Tribunal has passed an award for a sum of Rs.9,800/-. Challenging the same, the Insurance Company has filed this Appeal.

2. The main contention raised by the learned counsel for the appellant / Insurance Company is that, the Tribunal committed error in holding that the accident had taken place due to rash and negligent driving of the driver of the vehicle, but failed to note that the accident took place due to mechanical defect of the vehicle.



3. A perusal of the award passed by the Tribunal would go to show that the case of the claimant was taken up together along with other claimants, who suffered injuries in the same accident that took place on 07.01.1999. Further, the Tribunal has relied upon Ex.P-1-First Information Report and came to the conclusion that the accident had happened only due to the rash and negligent driving of the lorry. Also, by relying upon Ex.P-2-Medical History details and Ex.P-7-Wound Certificate, the Tribunal has awarded the total compensation, as stated supra. The Tribunal has also taken into consideration the evidence adduced by P.W.1-injured and R.W.-1-Insurance Surveyor. This Court is of the opinion that the award passed is perfectly justified, since no contra evidence against Exs.P-2 and P-7 was let in by the appellant herein.

4. From the materials placed before the Tribunal, it has chosen to award a sum of Rs.9,800/-, as total compensation under the heads of Transportation expenses, extra nourishment, loss of earning during treatment period and pain and sufferings. The total compensation awarded by the Tribunal is just and reasonable.

5. Further, admittedly the fact remains that the accident had taken place in the year 1999. After a period of two decades, it may not be proper to interfere with the quantum of compensation of Rs.9,800/-, especially, when the prices have escalated manifold and there is reduction in the value of money. Having regard to the lapse of time, this Court is not in a position to interfere with the quantum of compensation awarded.

6. In view of the above, the Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed.

7. The appellant / Insurance Company is directed to deposit the compensation amount, as awarded by the 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 Savings Bank Account of the injured / claimant, within one week thereafter. No costs. Consequently the connected MP is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



srk

To

1. The Motor Accident Claims Tribunal, I Additional District Court,

Krishnagiri.

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

+1 CC to Mr.G. Muniratnam, Advocate sr 50573

C.M.A.No.1650 of 2007
& MP No.1 of 2007

NMI (CO)
SP(17/10/2019)