



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM :

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

C.M.A. No.1632 of 2006
and
C.M.P.No.7251 of 2006

The National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai - 600 002.

... Appellant/2nd Respondent

Vs.

1.G.Ramanujam : 1st Respondent /Petitioner

2.E.Swarama : Respondent

(2nd respondent ex-parte before the Lower Court
and hence Notice may be dispensed with)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.76 of 2003, dated 31.01.2006 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.3, Poonamallee.

For Appellant : Mr.N.Vijayaraghavan

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the Insurance Company against the judgment and decree passed in M.C.O.P.No.76 of 2003, dated 31.01.2006 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.3, Poonamallee.

2.The facts of the case would run thus :

On the fateful day i.e. on 31.12.2000 at about 04.15 p.m., the 1st respondent was travelling as a passenger in an auto-rickshaw bearing Registration No.TN-10-A-2359. Near Basin



Bridge, the driver of the auto-rickshaw drove the vehicle in a rash and negligent manner and took a sudden turn towards North direction. Due to the said impact, the auto-rickshaw capsized, resulting in grievous injuries to the 1st respondent, who filed a claim petition before the Tribunal. The Tribunal awarded a compensation of Rs.83,710/- with interest @ 7.5% p.a. from the date of petition.

3.Challenging the judgment and decree of the Tribunal, the present appeal has been filed by the Insurance Company.

4.The learned counsel for the appellant Insurance Company has submitted that the auto-rickshaw bearing Registration No.TN-10-A-2359 was not at all involved in the accident on that day. Further, there are discrepancies in the exhibits marked on the side of the claimant. He also submitted that the compensation awarded by the Tribunal is exorbitant and excessive.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully.

6.This appeal was admitted on 22.06.2016 and it is seen that the 1st respondent was not served. Even at this point of time, the appellant Insurance Company has not taken any steps to serve papers on the 1st respondent. Since Exs.R1 and R2 marked on the side of the Insurance Company do not reveal as to who caused the accident, the Tribunal came to the conclusion that only the driver of the auto-rickshaw was negligent and he was responsible for the accident. This Court is not inclined to interfere with the said finding.

7.Dr.Prakash (P.W.3) had deposed before the Tribunal that under Ex.P4, the claimant has remitted a sum of Rs.18,400/- towards treatment and Rs.13,310/- towards the surgery conducted. Even though the claimant claimed a total sum of Rs.41,710/- towards treatment, in view of the above deposition of P.W.3, the Tribunal has awarded only a sum of Rs.31,710/- towards treatment. Further, taking note of the fact that the claimant sustained 30% disability, the Tribunal awarded a sum of Rs.40,000/-, which according to this Court, is reasonable. The amounts awarded towards other heads are also very reasonable.

8.In view of the above stated circumstances, the Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.



9.The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

mkn

To

The Additional District and Sessions Judge,
Fast Track Court No.III,
Poonamallee.

+1CC to Mr.N.Vijayaraghavan, Advocate, SR.No.46501.

C.M.A. No.1632 of 2006 and
C.M.P.No.7251 of 2006

PPA(CO)
CSR: 03/01/2020