

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.34 of 2019
and C.M.P.No.206 of 2019

1.G.Rathinam

2.Oriental Insurance Co.Ltd,
Velur. ... Appellants/Respondents

Vs.

M.Velu ... Respondent /Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.04.2004 made in M.C.O.P.No.118 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruppathur.

For Appellants : Mr.S.Janarthanan

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 12.04.2004 made in M.C.O.P.No.118 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruppathur.

2.The appellants are respondents in M.C.O.P.No.118 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruppathur. The respondent/claimant filed the said M.C.O.P. claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.10.2000. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the first appellant and directed the second appellant being insurer of the said lorry to pay a sum of Rs.1,24,250/- as compensation to the respondent. Against the said award of the Tribunal, dated 12.04.2004 made in M.C.O.P.No. 118 of 2001, the appellants have come out with the present Civil Miscellaneous Appeal challenging

the liability fixed on them as well as quantum of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellants contended that the Tribunal has erred in holding that the driver of the first appellant is responsible for the accident solely relying on Ex.P2/judgment of the Criminal Court. The Trial Court ought to have considered the evidence let in before the Tribunal and has independently come to the conclusion with regard to the negligence. The respondent has filed only Ex.P8 wound certificate and did not examine any Doctor to prove his disability. The respondent has produced Exs.P11 and P12/medical bills, but did not produce discharge summary. The amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award passed by the Tribunal.

4.I have heard the learned counsel appearing for the appellants and perused the materials available on record.

5.From the award of the Tribunal, it is seen that the Tribunal considering the evidence of respondent as PW1, Ex.P1/F.I.R., which was registered against the driver of the lorry and based on Ex.P2/judgment of the Criminal Court, has held that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the first appellant. The respondent as PW1 in his evidence has categorically stated that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the first appellant. The appellants have not let in any evidence to prove their case that the accident occurred only due to rash and negligent driving by the respondent. The contentions of the appellants that the Tribunal has erred in awarding compensation towards disability and on other heads, when the respondent failed to examine the Doctor and failed to produce discharge summary, are without merits. The respondent has produced Ex.P8/wound certificate to prove the nature of injuries sustained by him and produced Exs.P10 and P11/medical bills. There is no contra evidence let in by the appellants to disprove the contention of the respondent. In the above circumstances, there is no error in the award of the Tribunal warranting interference by this Court.

6. In the result, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The second appellant/Insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the entire amount awarded by the Tribunal

along with interest and costs, after adjusting the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kj/rst

To

The Motor Accidents Claims Tribunal,
The Subordinate Judge, Tiruppathur.

+1 cc to Mr.S.Janarthanan, Advocate, Sr.No. 819

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VD(CO)
CSL/30.05.2019



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