

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1990 of 2007
and M.P.No.1 of 2007

The New India Assurance Co.Ltd.,
Cuddalore.

..Appellant/Petitioner

Vs

1.Kumar

2.Senthamaraikannan

...Respondents/Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.10.2006 made in MCOP No.1050 of 2005 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge at Cuddalore.

For Appellant : Mr.K.Padmanabhan

For Respondents : Mr.S.Rajasekar for R1

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.2,72,610/- towards compensation to the first respondent, due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 14.04.2005, at about 08.00 p.m., the first respondent was proceeding in his bicycle in the Cuddalore - Chidambaram Road from North to South direction. When he reached near Kamar Theatre, the scooter belonging to the second respondent bearing Reg.No.TN-02-A-6437 came from the opposite direction at a great speed, in a rash and negligent manner and hit against the first respondent's bicycle. Due to the said impact, the first respondent sustained grievous injuries and fractures. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,72,610/- interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in giving a finding that the accident had occurred only due to the rash and negligent driving of the driver of the scooter. He also disputed the quantum of compensation awarded by the Tribunal, stating that the same is excessive and exorbitant.

5.The learned counsel for the first respondent has submitted that the Tribunal has rightly considered the materials and evidence and has awarded the just and fair compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.Ex.P1 is the First Information Report, which has been filed against the rider of the scooter. As per Ex.P3-Motor Vehicle Inspection Report, it is seen that the accident was not due to any mechanical defect of the vehicle. As against the evidence of P.W.1-injured that the accident had occurred only due to the rash and negligent driving of the driver of the scooter, no oral or documentary evidence was adduced on the side of the Insurance Company. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the scooter, which factual finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.2,30,400/- towards loss of income. Since the claimant was a mechanic, the Tribunal fixed the monthly income of the claimant at Rs.4,000/-, arrived at the annual income at Rs.48,000/-, applied the multiplier of 16 and thereafter arrived at a sum of Rs.2,30,400/- in respect of 30% disability. The Tribunal has also awarded a sum of Rs.5,000/- towards pain and suffering and Rs.37,210/- towards medical expenses, relying upon Ex.P4-Medical Bills. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. 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 first respondent /

claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

KM
To

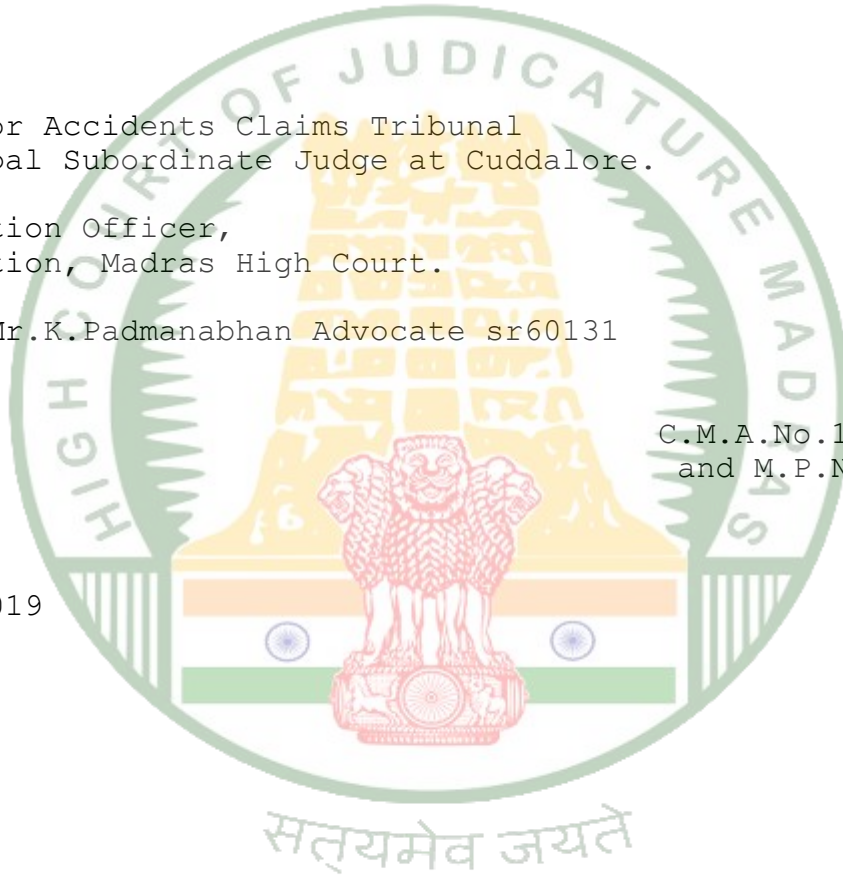
1.The Motor Accidents Claims Tribunal
Principal Subordinate Judge at Cuddalore.

2.The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.K.Padmanabhan Advocate sr60131

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