



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2065 of 2007
& M.P.No.1 of 2007

The New India Assurance Co.Ltd.,
Divisional Office, K.G.Swamy Complex,
No.14/7, Bagalur Road, Hosur.

.. Appellant/2nd Respondent

Vs.

1.Jaya Prakash

..1st Respondent/Petitioner

2.Indu Hissania

(The 2nd respondent remained exparte and
notice dispensed with for him).

.. 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 18.09.2006 made in MCOP No.801 of 2005 on the file of the Motor Accident Claims Tribunal (I Additional District Judge) at Krishnagiri.

For Appellant : Mr.M.Krishnamoorthy

For R-1 : P.Mari

For R-2 : Exparte

J U D G M E N T

This appeal is directed against the judgement and decree made in MCOP No.801 of 2005, dated 18.09.2006 on the file of the Motor Accident Claims Tribunal (I Additional District Court) at Krishnagiri, wherein, the Tribunal has awarded a sum of Rs.3,99,500/- as compensation to the injured/claimant/first respondent herein, an agriculturist and doing transport business, who was injured in a road accident.

2. While the injured was travelling in a Maruthi Car on the Hosur to Bangalore NH Road, on 03.03.2004, one Maruthi Omni Car bearing Registration No.KA.05 P4832 belonging to the first



respondent and insured with the Appellant/Insurance Company, which was driven by its driver in a rash and negligent manner, suddenly came from side way and hit the Maruthi 800 Car. Due to the said accident, the first respondent herein / claimant sustained multiple injuries. So stating, he claimed a petition before the Claims Tribunal claiming a sum of Rs.7,00,000/- as compensation.

3. The Tribunal, based on the evidence and documents produced, has fastened the liability against appellant herein / R-2 before the Tribunal and ultimately quantified the compensation as stated supra.

4. The learned counsel appearing for the Appellant/Insurance Company submitted that the Tribunal ought to have dismissed the claim petition as the same was vitiated by the non-joinder of necessary parties namely, the owner and insurer of the Maruthi Car; in any event, the compensation quantified by the Tribunal is on the higher side.

5. The learned counsel appearing for the first respondent / claimant / injured submitted that the Tribunal, based on the witness account and documents produced, has assessed the compensation and hence, the same does not require any interference by this Court.

6. A perusal of the award passed by the Claims Tribunal would go to show that based on the evidence adduced, it came to the conclusion that the accident had happened due to rash and negligent driving of the second respondent herein and it fastened the liability on the appellant herein. Further, the appellant herein has not rebutted any evidence with regard to the negligence upon the Car driver. Under such circumstances, the Tribunal, after perusal of the records and FIR, came to the conclusion that the accident had happened due to rash and negligent driving on the part of the second respondent. Further, the Tribunal has also discussed in detail about the contents of the FIR and nexus between the mode of accident upon the two vehicles in question. Hence, this court finds no reason to interfere with the findings so rendered by the Claims Tribunal.

7. As far as the quantum awarded by the Tribunal is concerned, the same has been quantified based on probabilities of the case and weightage of evidence and in tune with the said principles of law. Hence, the same has to be confirmed and it is confirmed as such.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests 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 deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, within one week thereafter, through RTGS. Consequently, connected MP is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

kv / srk
To

- 1.The I Additional District Judge
The Motor Accident Claims Tribunal
Krishnagiri.
2. The Section Officer,
V.R. Section
High Court, Madras.

C.M.A.No.2065 of 2007
& M.P.No.1 of 2007

RSI (CO)
SP(06/01/2020)