



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 03.06.2019  
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.799 of 2004  
and C.M.P.No.4447 of 2004

M/s.New India Assurance  
Company Limited,  
Pondicherry.

...Appellant /2nd Respondent

Vs

1.Tejesh

..1st Respondent/Petitioner

2.M/s.Mahalakshmi Transports

No.84, 1<sup>st</sup> Floor, Puthu Mariamman Koil Street,  
Ellapillaichavadi, Pondicherry.

(Ex-parte in the Lower Court). ...2ndRespondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.04.2003 made in MCOP No.784 of 2002 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Pondicherry.

For Appellant : Ms.R.Sri Vidhiya

#### JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,70,000/- towards compensation to the first respondent, who suffered injuries in a road accident.

2.The case in brief, is as follows:

On 21.03.2002, while the first respondent was riding his two-wheeler bearing Regn.No.PY-01-M-3828 in the 100 ft Road, near Government Press Quarters, Pondicherry, a JCP bearing Regn.No.PY-01-R-99 belonging to the second respondent and insured with the appellant Insurance Company, came in a rash and negligent manner and dashed against the motorcycle. Due to the said impact, the first respondent sustained multiple injuries. He filed a claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.1,70,000/- with interest at the rate of 9% per annum from the date of petition, to the claimant.



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 not correctly assessed the disability of the claimant and hence the same needs to be interfered with by this Court.

5.Heard the learned counsel for the appellant.

6.It is seen that the first respondent was not served and therefore, fresh notice was ordered by this Court and even at this point of time, batta with petition is due with regard to the first respondent. The second respondent has been given up even before the Lower Court. On considering the oral and documentary evidences adduced, the Tribunal has correctly assessed the disability of the claimant upon the evidence given by the Orthopaedician P.W.2, who deposed that knee cap of the claimant was broken and hence it was removed and that the claimant is suffering from permanent disability due to the accident. It is also seen that the claimant suffered several fractures. Considering the injuries suffered by the claimant and the permanent disability, the Tribunal has fixed a sum of Rs.80,000/- towards permanent disability, Rs.10,000/- towards pain and suffering, Rs.20,000/- towards medical expenses and Rs.60,000/- towards loss of income and arrived at a sum of Rs.1,70,000/- with interest at 9% p.a. from the date of petition, which in my considered opinion, does not call for any interference. Hence the 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 III )

/true copy/

Sub Asst. Registrar

KM



To

1. The Motor Accidents Claims Tribunal (Principal District Judge),  
Pondicherry.

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copy to

The Section Officer  
VR Section  
Madras High Court,

+1 cc to M/s.R.Sree vidhya Advocate sr45429

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aa19/09/2019