

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.2145 OF 2006

AND

M.P.NO.1 OF 2006

United India Insurance Co. Ltd.,
rep. by its Branch Manager,
Divisional Office-I,
No.4, Promoncede Road,
First Floor, Post Box.No.40,
Condonement,
Trichy-1.

...Appellant/2nd Respondent

Vs

1.Manikandan

... 1st Respondent/Petitioner

2.V.Ramanathan

... 2nd Respondent/1st Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 18.11.2004 passed in M.C.O.P.No.744 of 2000, on the file of Motor Accidents Claims Tribunal, Sub-Court, Madhurantakam.

For Appellant : Mr.S.Udayakumar

For R2 : Mr.S.Sairaman

For R1 : No Appearance

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J U D G M E N T

This Civil Miscellaneous Appeal is filed by the Insurance Company, against the award dated 18.11.2004 passed in M.C.O.P.No.744 of 2000, on the file of Motor Accidents Claims Tribunal, Sub-Court, Madhurantakam.

2.Claiming a sum of Rs.1,00,000/- in an accident that took place on 30.05.2000, the injured- first respondent has filed a

claim petition before the Claims Tribunal. The case of the claimant is that when he was proceeding on the mud portion of the G.S.T.Road in the left side, by walk, he was hit by the bus belonging to the second respondent and insured with the appellant Insurance Company. Due to the said impact, the claimant sustained grievous injuries. The Tribunal, considering the materials and evidence available on record, has fastened the liability on the driver of the bus and awarded a total compensation of Rs.75,000/- with interest at the rate of 9% per annum from the date of petition. Challenging the same, the appellant Insurance Company has come up with this appeal.

3.The learned counsel for the appellant/Insurance Company has submitted that the award of Rs.75,000/- for 15% disability granted by the Tribunal is on the higher side; that the Tribunal ought not to have granted 9% interest on the award amount and should have granted only 7.5% interest, as per the principles enunciated in the judgments of the Hon'ble Supreme Court. But, the learned counsel has not disputed the manner in which the accident took place.

4.Heard the learned counsel for the appellant and perused the materials placed before it.

5.Though this appeal was admitted way back in the year 2006, the appellant insurance company has not taken proper steps to serve notice on the first respondent/claimant. However, due to efflux of time, this appeal is taken up for final disposal on merits.

6.Since the learned counsel for the appellant has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, need not be interfered with by this Court.

7.With regard to the quantum of compensation, the Tribunal has taken into consideration Ex.P3-Accident Register, Ex.P4-OP chit, Ex.P5-wound certificate and Ex.P9-Disability Certificate (15% disability fixed by P.W.3-Doctor) and ultimately held that the compensation of Rs.75,000/- would be just. But the Tribunal has failed to itemise the ultimate compensation awarded. However, the fact remains that if proper itemisation is done, the ultimate compensation that should be payable would come to Rs.75,000/- only, when compared with the nature of injuries and period of treatment of the claimant. Hence, if proper itemisation is done, the break-up details of the award would be as follows:-

S. No.	Description	Amount awarded by Tribunal (Rs.)
1.	Transportation	Rs. 5,000/-
2.	Extra Nourishment	Rs. 5,000/-
3.	Attender charges	Rs. 5,000/-
4.	Loss of earning during treatment period	Rs.15,000/-
5.	Loss of future earnings on permanent disability	Rs.20,000/-
6.	Pain and suffering	Rs.15,000/-
7.	Loss of expectation of life	Rs.10,000/-
	Total	Rs.75,000/-

8.Thus, the finding rendered by the Tribunal on quantum, is hereby confirmed as such, but with break-up details of the quantification arrived at.

9.The Civil Miscellaneous Appeal is disposed of accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

10.The appellant/Insurance Company is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interest and costs, 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 first respondent is permitted to withdraw the same.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

gbi/srk

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Madhurantakam.

2. The Section Officer,
V.R.Section, High Court,
Madras.

+1cc to Mr.S.Udayakumar, Advocate, S.R.No.57951

C.M.A.No.2145 of 2006
and
M.P.No.1 of 2006

SJ(CO)
CS/18/11/2020



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