



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.227 of 2006
and C.M.P.No.745 of 2006

National Insurance Company Ltd.,
Motor Third Party Cell
No.751, Anna Salai,
Chennai-600 002.

...Appellant/2nd Respondent

Vs

1.Rani

2.P.Devendran ..Respondents/Petitioners/1 & 2 Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 16.09.2004 made in MACTOP No.419 of 2003 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Thiruvallur.

For Appellant : Mr.S.Vadivel

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,60,000/- towards compensation to the first respondent / claimant due to the injuries sustained by her in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. On 23.02.2003, the first respondent / claimant was proceeding from West to East direction as a pedestrian in the By-pass Road, Tiruttani. At about 11.00 hours, near Balaji Motors, a motorcycle bearing Reg.No.TN-20-J-6809 came from the opposite side in the wrong direction in a rash and negligent manner and dashed against the first respondent / claimant. Due to the said impact, she sustained multiple injuries. 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.1,60,000/- with interest at the rate of 9%



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 quantum of compensation is highly disproportionate to the injuries alleged to have been sustained by the first respondent. Further, there was delay in lodging the First Information Report. He also submitted that the compensation awarded is excessive and exorbitant.

5.The respondents 1 and 2 are not ready in notice for want of correct address. It is further seen that no affidavit of service was filed by the appellant, for having served private notice to the respondents. The appeal was admitted way back in the year 2006, but the appellant Insurance Company had not taken any steps to serve papers to the other side, even at this point of time.

6.Heard the learned counsel for the appellant.

7.The Doctor who treated the claimant has been examined as P.W.2., who issued the Disability Certificate, which has been marked as Ex.P6. No witnesses examined or no documents marked on the side of the Insurance Company. P.W.1-claimant deposed before the Tribunal that since she took treatment in a hospital at Chennai pursuant to the injuries suffered, she was not able to lodge the complaint immediately. Ex.P2-Accident Register copy shows that the claimant took treatment on the same day of accident. Hence, the Tribunal came to the conclusion that there was no suspicion regarding the delay in filing the First Information Report, which according to this Court, does not require any interference. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded Rs.75,000/- towards loss of future earnings, taking note of the condition of the claimant that she cannot bend her legs and stand for a long time. Based on the disability of 35% assessed by the Doctor, the Tribunal has awarded Rs.35,000/- towards disability. The Tribunal has also awarded a sum of Rs.15,000/- towards loss of earning during the treatment period, Rs.2,500/- each towards transportation expenses and extra nourishment, Rs.5,000/- towards attender charges and Rs.25,000/- towards pain and suffering, on considering the materials and evidence available on record. The amounts awarded under these heads are very reasonable and hence the same are confirmed.

8.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.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

KM

To

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

Copy to

The Section Officer,
VR Section, Madras High Court.

+1 CC to Mr.S.Vadivel, Advocate sr 46785.

C.M.A.No.227 of 2006
and C.M.P.No.745 of 2006

KK(CO)
SP(25/09/2019)