

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2181 of 2007

and

M.P.No.1 of 2007

The Oriental Insurance Company Ltd.,,
Chennai. ... Appellant/1st Respondent

Vs.

1.S.Manoharan ...1st Respondent/Petitioner

2.G.A.Paul Raj ...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 22.03.2006 passed in M.C.O.P.No.476 of 2000 on the file of the Motor Accident Claims Tribunal / Additional District Court, Fast Track Court No.5, Thiruvallur.

For Appellant : Mr.J.Chandran

For Respondents : No appearance

J U D G M E N T

The appellant / Oriental Insurance Company is the second respondent in M.C.O.P.No.476 of 2000 on the file of the Motor Accident Claims Tribunal / Additional District Court, Fast Track Court No.5, Thiruvallur. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.4,00,000/- for the injuries sustained by him in a road accident on 12.04.2000.

2. The case of the claimant is that on 12.04.2000, he was riding his motorcycle bearing Registration No. TN 67 Y 8056 on Tiruvallur - Tiruttani Road and at about 05.00 P.M., when he was nearing Thirupatchur, a tractor bearing Registration No. TN 20 C 3670 hit his motorcycle, as a result of which, he fell down and sustained grievous injuries. According to the claimant, the rash and negligent driving of the driver of the tractor belonging to the second respondent was the cause of the accident and that since the said vehicle was insured with the present appellant / Oriental Insurance Company, the owner and the insurer of the tractor are jointly and severally liable to pay compensation.

3. The owner of the tractor remained absent before the Tribunal and therefore he was set ex-parte. The appellant / Oriental Insurance Company contested the claim petition on all the grounds available to the insured. The learned Additional District Judge / Motor Accident Claims Tribunal, Fast Track Court No.5, Thiruvallur after analysing the evidence on record, awarded a compensation of Rs.3,00,000/- together with interest at the rate of 7.5% per annum to the claimant. Questioning the quantum of compensation awarded by the Tribunal, the appellant / Oriental Insurance Company has filed the present appeal under Section 178 of Motor Vehicles Act, 1988.

4. Heard Mr.J.Chandran, learned counsel appearing for the appellant / Oriental Insurance Company. No appearance on behalf of the respondents.

5. A perusal of the records shows that the claimant was a constable in Central Reserve Police Force and he was aged 40 years on the date of the accident. It is seen from the medical records that the claimant had sustained a head injury and "fracture of right frontal and parietal bones". Dr.J.R.R.Thiagarajan (P.W.2) had assessed the partial permanent disability as 65%. It is also evident from the records that the claimant was directed to retire voluntarily, as he was found unfit to continue his work. The Tribunal after considering all these aspects, awarded a compensation of Rs.3,00,000/- together with interest at the rate of 7.5% per annum to the claimant. By no stretch of imagination, the award passed by the Tribunal can be said to be on the higher side, in the facts and circumstances of the present appeal. Therefore appeal fails and is dismissed.

. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal is upheld.

(iii) The appellant / Oriental Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., Rs.3,00,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.476 of 2000 on the file of the Motor Accident Claims Tribunal / Additional District Court, Fast Track Court No.5, Thiruvallur within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is at liberty to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

krk

To

1.The Motor Accidents Claims Tribunal,
The Additional District Court,
Fast Track Court No.V,
Thiruvallur.

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

+1cc to Mr.J.Chandran, Advocate SR.No.95716

C.M.A.No.2181 of 2007

SJ(CO)
GMY(24/08/2020)



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