

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2309 of 2007

Bhavani

... Appellant/Petitioner

Vs.

1.G.Raju

2.The New India Assurance Co.Ltd.,

No.46, Moore Street,

Chennai - 600 001.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.03.2006 made in M.C.O.P.No.1469 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Sessions Judge, IV Fast Track Court, Chennai.

For Appellant : Mr.A.Shanmugaraj

For Respondents: Mr. Elvert Ravindran, for R-2.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 24.03.2006 made in M.C.O.P.No.1469 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Sessions Judge, IV Fast Track Court, Chennai.

2. One P.Bhavani, aged 19, working as Coolie, earning a sum of Rs.70/- per day has met with the accident on 15.02.2000 at early hours of 00.30 a.m., while she was travelling in the Lorry bearing Registration No.TN 07 C 3741 in East Coast Road M.G.R.Road, Chennai. In the said accident, she suffered dislocation on right leg, knee, shoulder and other multiple injuries. For the injuries sustained, she claimed a sum of Rs.1,00,000/- as compensation.

3.The learned counsel appearing for the appellant/claimant submitted that the award passed by the Tribunal is meager considering the nature of injuries, period of treatment and other aspects. Whereas, the learned counsel appearing for the second respondent submitted that the award itself was passed by

the consent of both parties before the Tribunal and hence, the grounds taken by the learned counsel for the appellant are not valid in the eye of law.

4. A perusal of the award passed by the Tribunal would go to show that the Tribunal has considered the following issues for consideration:-

1. On whose negligence, the accident had happened?

2. If the accident had happened due to the rash and negligent driving on the part of the first respondent, whether the second respondent is liable to pay the compensation and if so to what extent? and

3. Whether the contention of the second respondent that the rejection of the Insurance Policy (Ex.R6) on 17.11.2000 is a bonafide one and in spite of the cancellation, whether the second respondent is liable to pay the compensation?

5. At the outset, it has to be pointed out that before the Tribunal, after examining the claimant, the Doctor has certified the disability at 45%, but the Tribunal has taken the same only at 15% without any basis and has ultimately awarded the total compensation. Hence, the contention that the amount awarded is excessive is incorrect.

6. Further, the Tribunal has considered the case on merits and analyzed the evidence on record in detail based on the issues framed and has ultimately come to the conclusion that the sum of Rs.28,000/- as total compensation would be the just compensation payable to the claimant. The said conclusion is based upon the evidence and by consent of both parties. In such view of the matter, the contention raised by the claimant/appellant has no legs to stand. Further the issues framed were answered against the Insurance Company and in favour of the claimant by detailed reasonings.

7. Further more, the accident had taken place in the year 2000 and the award had been passed during 2006. Hence, considering the paucity of time also, the award of the Tribunal has to be confirmed.

8. In the result, the award passed by the Tribunal is confirmed as such. This Civil Miscellaneous Appeal is dismissed. No costs. The second respondent / Insurance Company is directed to deposit the award amount passed by the Tribunal, along with interests and costs, less the amount already deposited if any,

within a period of four weeks from the date of receipt of copy of this judgement to the credit of M.C.O.P.No.1469 of 2001. On such deposit, the Tribunal is directed to transfer the said amount to the savings bank account of the claimant / appellant, through RTGS, within one week thereon.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional District Sessions Judge,
Motor Accidents Claims Tribunal,
IV Fast Track Court, Chennai.
- 2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.Elveera Ravindran, Advocate Sr.48770

C.M.A.No.2309 of 2007

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srg 18/09/2020

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