

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.238 of 2006
and C.M.P.No.784 of 2006National Insurance Co. Ltd.,
Coimbatore...Appellant/3rd Respondent

Vs.

1. A. Joe Franklin ..1st Respondent/Petitioner
2. R.Ganesan ..2nd Respondent/1st Respondent
3. A.Sundaram ..3rd Respondent/2nd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.7.2004 made in MCOP.No.543 of 2004 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Coimbatore.

For Appellant	:	Mr.S.Arun kumar
For R1	:	Mr.M.Selvam
For R2 & R3	:	died

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,32,880/- towards compensation to the first respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 01.04.2003, at about 11.45 pm, the first respondent/claimant was riding his motorcycle bearing Registration No.TN 37 AA 2327. When he was nearing the junction of Central bus stand Traffic signal Umbrella, a Maruthi Car bearing Registration No. TN 38 E 0666, belonging to the third respondent, insured with the appellant insurance company, came in a rash and negligent manner and dashed against the motorcycle, while taking U-turn without any signal. Due to the said impact, the first respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials

and evidence available on record, the Tribunal awarded a total compensation of Rs.1,32,880/- with interest at the rate of 9% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant - Insurance Company has disputed only the quantum of compensation. According to him, the compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent/claimant and hence, the same has to be reduced substantially.

4.Per contra, the learned counsel for the first respondent/claimant submitted that the Tribunal, after examining the oral and documentary adduced by the parties, has awarded the just compensation, which warrants no interference in the hands of this Court.

5.Heard the learned counsel for the appellant Insurance Company and the learned counsel for the first respondent/claimant and perused the materials available on record.

6.The learned counsel for the appellant Insurance Company has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Car and hence, the said finding of the Tribunal need not be interfered with by this Court.

7.As regards the quantum of compensation awarded by the Tribunal, the first respondent/claimant himself examined as P.W.1, who deposed that he was aged 23 years and was earning a sum of Rs.6,700/- per month as NetWork Administrator in NET/TECH. He further deposed that in the accident, the front glass of the Car torn his right side neck, due to which, he was admitted in KG Hospital and operated and as a result of the same, his voice has become hoarse; and he also sustained grievous injuries in all over the body. The injuries sustained by the first respondent/claimant was substantiated by the testimony of P.W.2/doctor, who issued Ex.A14-disability certificate to the tune of 16%. After considering those materials and evidence, the Tribunal has taken the monthly income of the first respondent/claimant at Rs.1,250/-; adopted the multiplier of 17; taken the permanent disability at 10%; and quantified the compensation under the head "loss of income due to disability" at Rs.25,500/- (15,000/- x 17 x 10/100). The Tribunal has rightly determined the income, adopted the

multiplier and assessed the compensation under this head and hence, the same does not require any interference by this Court.

8. That apart, the Tribunal has awarded Rs.96,380/- towards medical expenses, as per Ex.A9-medical bills, which is the actual medical expenses incurred by the first respondent/claimant for his treatment and the same is hereby confirmed. Further, the Tribunal has awarded Rs.5,000/- towards pain and suffering, Rs.5,000/- towards mental agony, Rs.500/- towards extra nourishment and Rs.500/- towards transport expenses, which are fair, just and reasonable and the same cannot be said to be excessive and exorbitant at any stretch of imagination, considering the nature of the injuries sustained by the first respondent/claimant and in the given facts and circumstances of the case and hence, the same are hereby confirmed.

9. In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Insurance Company is directed to deposit the entire compensation amount 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 Judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Arbitration)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
The Principal Subordinate Judge, Coimbatore.

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

+1 cc to M/s.S.Arun Kumar, Advocate Sr.No. 56643

AKM/13.02.2020/3P-4C /

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