

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2319 of 2005
& CMP No.12376 of 2005

New India Assurance Co. Ltd.,
Arni

... Appellant/2nd Respondent

...Vs...

1. C.Rajendran ...1st respondent/claimant
2. S.Imthiyass ...2nd Respondents/Ist respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 29.10.2004 made in MCOP No.469 of 2001 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Cheyyar.

For Appellant : Mr.M.Krishnamoorthy
For Respondents : No Appearance.

J U D G M E N T

The claimant, C.Rajendran, aged 24, doing Biscuit Business, earning a sum of Rs.4,000/- per month, met with an accident on 27.04.2001. In respect of the injuries sustained, he claimed a sum of Rs.30,000/- as compensation. The Tribunal has passed an award for a sum of Rs.10,000/- under the head of Pain and suffering, Medical expenses and loss of income, in total.

2. Contending that the amount of compensation is exorbitant to the nature of injuries sustained, the Insurance Company has filed this Appeal.

3. The sole contention raised by the learned counsel for the appellant is that the Tribunal erred in fastening the liability on the appellant even after accepting the case of the appellant, by wrongly interpreting the decisions relied on by the claimant.

4. The Tribunal, after analyzing the decisions referred to by both parties, has made a vital observation that any condition in the insurance policy whereby the right of the third party is taken away would be void and ultimately held that the claimant was entitled to compensation from the insured and the insurer

had liability to pay by way of indemnification. The said finding of the Tribunal is based upon facts, evidence and settled principles of law, which in the opinion of this Court is perfectly valid and does not require any interference.

5. Based on the said finding, the Tribunal has awarded the compensation of Rs.10,000/- as against Rs.30,000/- claimed by the claimant. The compensation amount arrived by the Tribunal is just and fair and does not require interference at the hands of this Court.

6. In view of the above, the Civil Miscellaneous Appeal, filed by the Insurance Company, has no meritorious grounds. Thus, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

7. The appellant / Insurance Company is directed to deposit the amount of compensation, as awarded 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 a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the compensation amount to the Savings Bank Account of the claimant through RTGS, forthwith.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

srk

To

1. Motor Accident Claims Tribunal,
Subordinate Judge, Cheyyar.

+1 cc to Mr.M.Krishnamoorthy Advocate sr47614

CMA No.2319 of 2005
& CMP No.12376 of 2005

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