



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.243 and 244 of 2007
and M.P.Nos.1 and 1 of 2007

National Insurance Company Ltd.,
88-F, Bye-Pass Road,
Dharmapuri-636 701. ... Appellant in both the appeals/
2nd Respondent

Vs

Selvaraj ... 1st respondent in CMA 243/2007/Claimant

Jayaraj ... 1st respondent in CMA 244/2007/Claimant

M.Palaniammal
... 2nd respondent in both the appeals/
1st Respondent

Appeals under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.06.2006 made in MACTOP Nos.891 of 2003 and 1508 of 2003 respectively, on the file of the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court No.1), Salem.

For Appellant : Ms.R.Sree Vidhya
in both appeals

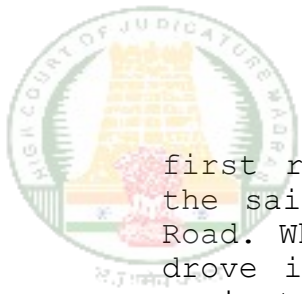
For Respondents : No appearance
in both appeals

COMMON JUDGMENT

These appeals have been preferred by the Insurance Company against the awards of a sum of Rs.52,850/- and Rs.25,000/- respectively, towards compensation to the first respondent / claimants in these appeals, due to the injuries sustained by them in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 28.03.2003, at about 7.30 a.m., the first respondent / injured in CMA No.243 of 2007 was just sitting on the sand load of the lorry belonging to the second respondent, bearing Reg.No.TN-27-D-7579, as a load man. The



first respondent / injured in CMA No.244 of 2007 travelled in the said lorry. The lorry was proceeding in the Salem - Omalur Road. When the lorry was passing Water Tank Bus Stop, the driver drove it in a rash and negligent manner at high speed and hit against another lorry coming from the opposite direction. Due to the said impact, the first respondent / injured in CMA No.243 of 2007 fell down from the lorry and sustained grievous injuries all over the body. The first respondent / injured in CMA No.244 of 2007 also sustained injuries, due to the accident. They filed claim petitions before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.52,850/- with interest at the rate of 7.5% per annum from the date of petition, in respect of the first respondent / injured in CMA No.243 of 2007 and Rs.25,000/- with interest at the rate of 7.5% per annum from the date of petition, in respect of the first respondent / injured in CMA No.244 of 2007.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeals.

4.The learned counsel for the appellant has submitted that the claimants travelled in the lorry as unauthorised passengers and hence the Tribunal ought to have exonerated the Insurance Company from any liability, since such liability is not contemplated under Section 147 of the Motor Vehicles Act, 1988. She further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.There is no representation on behalf of the respondents.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.P.W.1-Selvaraj, claimant in CMA No.243 of 2007, deposed before the Tribunal that the travel made by him in the lorry was only relating to his work. P.W.3-Jayaraj, claimant in CMA No.244 of 2007, deposed before the Tribunal that since he required the sand, he travelled along with sand in the lorry. P.W.4-Elumalai, who also travelled in the lorry, deposed that since he is a mason, he travelled in the lorry. Hence, it is seen that all of them travelled in the lorry, only due to their respective duties. Therefore, the Tribunal came to the conclusion that the appellant Insurance Company has to pay the compensation, as the insurer of the lorry, which finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.40,000/- towards permanent disability to the first respondent / claimant in CMA No.243 of 2007, taking



into consideration that he sustained 25% disability, even though according to the evidence of the Doctor, it is 50%. The Tribunal has also awarded a sum of Rs.5,000/- towards pain and suffering, Rs.5,000/- towards extra nourishment and hospital expenses, Rs.2,850/- towards medical expenses. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

9.In respect of the claimant in CMA No.244 of 2007, the Tribunal has awarded a sum of Rs.15,000/- towards permanent disability, taking into consideration that he sustained 10% disability. The Tribunal has also awarded a sum of Rs.5,000/- towards pain and suffering and Rs.5,000/- towards extra nourishment and hospital expenses. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

10.In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. The appellant Insurance Company is directed to deposit the award amounts 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 / claimants in these appeals are permitted to withdraw the same, on making proper application before the Tribunal.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal

(Additional District Judge, Fast Track Court No.1), Salem.

C.M.A.Nos.243 and 244 of 2007
and M.P.Nos.1 and 1 of 2007

TM(CO)
SP(01/11/2019)