



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2433 of 2007
and M.P.No.1 of 2007

The Oriental Insurance Company Limited
Divisional Office
Katpadi Road, Vellore.

...Appellant /2nd Respondent

Vs

1.M.Kalaivanan

...1st Respondent/Petitioner

2.M/s.Pushpa Leathers

through its owner

No.129, Sidco Industrial Estate,

SIPCO, Ranipet, Vellore District. ...2nd Respondent/
1st REspondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 22.02.2006 made in MCOP No.567 of 2002 on the file of the Additional District and Sessions Court - Fast Track Court No.II at Ranipet.

For Appellant

: Mr.K.Anbarasan

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.20,000/- towards compensation to the first respondent for the injuries he suffered in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 02.04.1997 at about 09.15 p.m., the first respondent and his friends were walking on the edge of the road at Sipcot near Mamas Nursing Home. At that time, the Hero-Honda Motorcycle bearing Reg.No.TCJ-7775, driven by its rider in a rash and negligent manner, came at high speed and dashed against the first respondent and his friends. Due to the



said impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.20,000/- with interest at the rate of 9% per annum from the date of petition. The Tribunal also ordered that failure to deposit the said amount with 9% interest per annum within a period of three months, will attract 12% interest per annum and the said excess 3% shall be recovered from the official who caused such delay.

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

4.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in fixing the liability on the part of the rider of the motorcycle. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.It is seen that the respondents 1 and 2 are not ready in notice. No affidavit of service has been filed for having served private notice to the respondents. The appellant Insurance Company has not taken steps, even at this length of time, to serve papers to the other side.

6.Since no witnesses have been examined and no documents marked on the side of the Insurance Company to deny the accident, but the claim of the injured has been opposed only on the ground that the driver of the motorcycle did not possess valid driving licence, the Tribunal came to the conclusion that only because of the rash and negligent driving of the rider of the motorcycle, the accident took place. This Court is not inclined to interfere with the said finding rendered by the Tribunal.

7.With regard to the quantum of compensation, the Tribunal awarded a sum of Rs.5,000/- towards transport expenses, nourishment and medical expenses, Rs.5,000/- towards pain and suffering and Rs.5,000/- each towards loss of income and disability, totalling to Rs.20,000/- in all. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount 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 / claimant is permitted to withdraw the same on making proper application before the Tribunal.

WEB COPY

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Additional District and Sessions Court -
Fast Track Court No.II
at Ranipet.

copy to

The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.K.Anbarasan Advocate sr48888

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aa26/11/2019