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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2485 of 2007
and M.P.No.2 of 2007

National Insurance Company Ltd.,
Jawaharlal Nehru Street
Neyveli-3.

... Appellant/2nd respondent

Vs

1.Santhoshkumar

..1st Respondent/ Petitioner

2.S.Manivannan

...2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.05.2006 made in MACTOP No.63 of 2006 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.3, Virudhachalam.

For Appellant : Mr.S.Vadivel

For Respondents: Mr.A.Balachandran for R1

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.3,30,000/- 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, ie. on 07.01.2005, the first respondent / injured was proceeding from Amaravathi Road to Indira Nagar, Neyveli in a motorbike bearing Reg.No.TN-31-M-9363. At about 11.45 p.m., when he was nearing opposite to NLC Horticulture Division Grounds from West to East direction, an auto-rickshaw bearing Reg.No.TN-31-T-6944 belonging to the second respondent, came from the opposite direction in a rash and negligent manner at high speed. Even though the first respondent stopped his bike to avoid any untoward incident, the said auto-rickshaw dashed



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against the bike. 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.3,30,000/- with interest at the rate of 9% per annum from the date of petition.

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

4.The learned counsel for the appellant has submitted that there are contradictions and inconsistencies in the manner in which the alleged incident took place. No independent witnesses were examined on behalf of the claimant to prove the accident. He also submitted that no valid reason has been given by the Tribunal for fixing negligence on the part of the driver of the auto-rickshaw. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the first respondent / claimant has submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.In Ex.P12-Accident Register, it is stated that the injured fell from the motorcycle and hence he sustained injuries. As per Ex.P1- First Information Report, it is seen the auto-rickshaw driver drove the vehicle in a rash and negligent manner and dashed against the motorbike. Since there were discrepancies, the Tribunal took the information available in the First Information Report, as per law and accordingly came to the conclusion that only the auto-rickshaw driver caused the accident. The Tribunal has analysed the matter properly and had given a finding that only the driver of the auto-rickshaw caused the accident by negligent driving and hitting the motorbike, which this Court is not inclined to interfere. With regard to the quantum of compensation awarded by the Tribunal, since the injured was the proprietor of a Press concern by name M/s.Tamilnadu Press, Neyveli, and further taking note of the materials on record, the Tribunal came to the conclusion that the injured would have earned at least not less than Rs.5,000/- per month and accordingly calculated the annual income of the injured at Rs.60,000/- and by



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adopting the multiplier of 12, awarded a sum of Rs.2,88,000/- in respect of 40% disability fixed by the Doctor. The Tribunal has correctly assessed the income of the injured, adopted the correct multiplier and arrived at Rs.2,88,000/- towards loss of income, which this Court is not inclined to interfere. The Tribunal has also awarded a sum of Rs.30,000/- towards general loss, Rs.7,000/- towards transport expenses and Rs.5,000/- towards pain and suffering. 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.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Fast Track Court No.3, Virudhachalam.

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

+1cc to Mr.D.Balachandran , Advocate SR.No. 48887

+1cc to Mr.S.Vadivel , Advocate SR.No. 49028

C.M.A.No.2485 of 2007
and M.P.No.2 of 2007

A.SK(30/10/2019)