

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2562 of 2006
and M.P.No.1 of 2006

The Oriental Insurance Co.Ltd.,
U.I.L.Building, No.8, Esplanade,
Near High Court,
Chennai-108.

.... Appellant /2nd Respondent

Vs

1.Dhanabakkiyam ...1st Respondent/Petitioner

2.Y.Muthumari ...2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.02.2005 made in MCOP No.310 of 1999 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Kancheepuram, FTC-II.

For Appellant : Mr.J.Chandran

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.6,000/- towards compensation to the first respondent due to the injuries sustained by her.

2.The case in brief, is as follows:

The first respondent, as an agent of the goods, and some others, were travelling in a Tempo Van bearing Reg.No.TN-74-7277 on 23.05.1999 from Madras towards Kancheepuram in the GWT Road. At about 8.30 p.m., the driver of the van drove it in a rash and negligent manner and due to the same, the van dashed against a parked lorry near Pompon Oil Mill. Due to the said impact, the occupants of the van, including the first respondent herein, sustained grievous injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.6,000/- with interest at the rate of 9% per annum from the

date of petition, to the first respondent, under the heads of special diet, medicines and pain and suffering.

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 the deceased himself invited the accident by travelling as a passenger in the goods vehicle. He also submitted that the compensation awarded by the Tribunal is against the pleadings, evidence and the laid principles of law.

5.Heard the learned counsel for the appellant.

6.Even though this appeal was admitted way back in the year 2006, the appellant Insurance Company has not taken any steps to serve papers to the other side. Ex.P1 is the true copy of the First Information Report, which shows that a complaint was given by one Balaji against the driver of the Tempo Van and the same was also registered. The driver of the van was not examined to speak about the accident. Considering the evidence of P.W.1-One another injured in the same accident and also the evidence of P.W.2, the claimant herein, the Tribunal categorically came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of van, which this Court is not inclined to interfere. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has only awarded a meagre sum of Rs.6,000/- towards special diet, medicines and pain and suffering, by relying upon Ex.P10-Blood Test Report, Ex.P11-Blood Sugar Report, Exs.P12 and P13-Bills for taking X-rays and Exs.P14 and P15-Bills for laboratory charges, which also this Court is not inclined to interfere.

7.In view of the above stated circumstances, 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 claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
(Additional District Judge),
Kancheepuram, FTC-II.

Copy To : The Section Officer,
VR Section, Madras High Court.

C.M.A.No.2562 of 2006
and M.P.No.1 of 2006

CP(CO)
GMY(18/09/2019)



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