

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1547 OF 2008

AND

M.P.NO.1 OF 2008

Oriental Insurance Co.Ltd.,
Regional Office, Post Box No.1877,
No.8,Esplanade, Chennai-600 108.

..... Appellant/Respondent No.2

Vs.

1.Munirathinam ... Respondent No.1/Petitioner

2.N.P.T.Kumar ... Respondent No.2/Respondent No.1
(R2 set exparte before the Tribunal)

Prayer:

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 06.04.2006 made in MACT.OP No.1656 of 2003 on the file of the Motor Accident Claims Tribunal, Sub Court, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan

For R-1 : M.Magesh

J U D G M E N T
सत्यमेव जयते

This appeal is preferred by the insurance company against the judgment and decree dated 06.04.2006 passed by the Motor Accidents Claims Tribunal, Sub Court, Krishnagiri (for brevity, "the Tribunal"), in MACT OP.No.1656 of 2003.

2.The first respondent/claimant filed a claim petition claiming compensation of Rs.5,00,000/- for the injuries sustained by him, in an accident that took place on 23.02.2000, while he was travelling in a lorry bearing Registration No.AP04 T 1778, which was driven by its driver in a rash and negligent manner.

3.The Tribunal, on consideration of the oral and documentary evidence adduced by the parties, has awarded a total compensation of Rs.4,80,000/- with interest at 9%p.a. from the date of petition. Aggrieved over the same, the appellant insurance company has filed this appeal.

4.The learned counsel for the appellant/Insurance Company submitted that the first respondent/claimant travelled in the lorry as gratuitous passenger and hence, the Insurance Company cannot be fastened with the liability to pay the compensation. He further submitted that the Tribunal erred in passing an exorbitant award of Rs.4,80,000/-, which is unjustified.

5.Per contra, the learned counsel for the first respondent/claimant submitted that the Tribunal, after examining the materials and evidence on record, has correctly fixed the liability on the appellant insurance company and ultimately quantified the compensation to the first respondent/claimant / injured and hence, the same do not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the first respondent/claimant and perused the materials available on record.

7.As regards the finding on negligence, it is the contention of the learned counsel for the appellant that the first respondent/claimant travelled in the lorry as an unauthorised passenger and hence, the appellant insurance company cannot be fastened with the liability to pay compensation. Whereas, the Tribunal has taken note of the evidence of PW.1/first respondent/claimant and Ex.P1- First Information Report, Ex.P2 -Accident Register and Ex.P3-insurance policy and has rightly arrived at the conclusion that the accident had occurred due to the rash and negligent driving on the part of the driver of the lorry, which was insured with the appellant insurance company and consequently, held that the appellant insurance company was liable to pay compensation, which finding this Court is not inclined to interfere.

8.As far as the quantum of compensation awarded by the Tribunal is concerned, P.W.1/first respondent/claimant has deposed that he was aged about 40 years and was earning Rs.4,500/- per month by working as tailor and vegetable business; due to the impact of the accident, he got lacerated wound 25x4 cm in viscera and lacerated injury on the left side of the chest and fracture in 9th and 10th ribs. The injuries sustained by the first respondent/claimant was supported by P.W.2/doctor. Ex.P5 is the medical bills and Ex.P9 is X Ray. Based on those oral and documentary evidence adduced by the

parties, the Tribunal has awarded Rs.1,00,000/- towards injuries, Rs.1,10,000/- each towards pain and suffering and permanent disability, Rs.60,000/- towards loss of future earning, Rs.50,000/- towards medical expenses, Rs.10,000/- towards attendar charges, Rs.10,000/- towards extra nourishment, Rs.5,000/- transport expenses, Rs.15,000/- towards loss of partial earning, and Rs.10,000/- towards damage, in totalling Rs.4,80,000/-, which in the opinion of this Court, are fair, just and reasonable, considering the nature of the injuries sustained by the first respondent/claimant and having regard to the facts and circumstances of the case and hence, the same are hereby confirmed.

9.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, 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 amount lying in the deposit to the Savings Bank Account of the claimant / injured / first respondent herein, within one week thereafter, through RTGS. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

kv/srk/rk

To

1. The Presiding Officer,
Motor Accident Claims Tribunal,
Sub Court, Krishnagiri.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.63963

C.M.A.No.1547 of 2008 and
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PPA(CO)
CS/03/03/2020