



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2019

Coram:

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Civil Miscellaneous Appeal No.2715 of 2007 and
M.P.No.3 of 2007

The Divisional Officer
The New India Assurance Company Limited
No.69/70, Sheikpet Center Street
Kancheepuram

Appellant

Vs

1. Yasodha
2. S.Vasanthi

Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 08.03.2005 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.I, Chengalpat in MCOP No.678 of 2002.

For Appellant : S. Manivannan
For R1 : No appearance

J U D G M E N T

According to the first respondent/claimant, on 20.08.2002, at about 5.30 pm, while she was going along with her husband in a two wheeler bearing Reg.No. TN 21 X 3495, from Manamai to Thirukalukundram, a bus bearing Reg.No.TN 27 Z 5354 driven by its driver, in a rash and negligent manner, dashed against the said two wheeler, due to which, the claimant and her husband were thrown out of the vehicle and sustained grievous injuries all over the body. The claimant has filed a claim petition seeking compensation. The Tribunal based on the materials available on record, has awarded a sum of Rs.1,66,230/- as compensation with the following break up details:-

S.No	Head	Compensation (in.Rs.)
1.	Loss of earning	1,53,600.00
2.	Pain and sufferings	5,000.00
3.	Damages to cloths	500.00
4.	Loss of amenities	500.00



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S.No	Head	Compensation (in.Rs.)
5.	Medical Expenses	6,627.53
Total		1,66,227.53
Rounded off to		1,66,230.00

2. Challenging the same, the appellant Insurance Company has preferred this Civil Miscellaneous Appeal.

3. Heard the learned counsel for the appellant.

4. Despite notice to the 1st respondent and the name being printed in the cause list, there is no representation on her behalf. Hence, the appeal is taken up on merits.

5. The learned counsel for the appellant Insurance Company submitted that the accident was not established in the manner known to law; even the husband of the claimant, who was riding the two wheeler, has not been examined before the Tribunal to establish the factum of accident; and the award passed by the Tribunal is against the principles of settled law.

6. A perusal of the award of the Tribunal would disclose that the appellant Insurance Company has not established their stand that the accident had happened only due to the negligence on the part of the claimant. Further, they have not produced any document or examined any witness to prove their case. That apart, there is no iota of evidence on the side of the driver of the bus about the manner of accident. Based on the materials and evidence on record, the Tribunal has rendered its findings that the accident had happened only due to the rash and negligent driving of the driver of the bus/2nd respondent herein and insured with the appellant herein.

7. This Court is of the considered opinion that the said findings rendered by the Tribunal are based on the weightage of evidence, probabilities of case and the settled principles of law and hence, the same need not be interfered.

8. As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has taken the monthly income of the claimant at Rs.2,000/- and considering the percentage of disability sustained by her, calculated the loss of income. Further, the Tribunal has awarded only meager sums towards medical expenses, extra nourishment, pain and suffering and thus arrived at Rs.1,66,230/-, which are just and reasonable, having regard to the facts and circumstances of the case.



9. It is borne out from the record that the accident had taken place in the year 2002, the claim petition was filed during 2002, Judgment was passed in the year 2005, appeal was filed during 2005 itself and the Judgment in the appeal is being pronounced only now, i.e 2019. Hence, after such a long period, it may not be proper for this Court to interfere with the quantum of compensation awarded by the Tribunal, especially for the reason that when the prices are escalated manifold and there is a reduction in the value of money. Therefore, compensation so quantified by the Tribunal has to be confirmed and is accordingly confirmed.

10. In the result, affirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests 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 deposited amount to the Savings Bank Account of the claimant forthwith, through RTGS. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal/Additional District Judge,
Fast Track Court No.I
Chengalpat
2. The Section Officer
V.R.Section
Madras High Court
Chennai 104

+1 CC to Mr.S. Manivannan, Advocate sr 57084.

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GP(CO)
SP(15/07/2020)