

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2799 of 2005

M/s. United India Insurance Company Limited,
Cuddalore .. Appellant/2nd Respondent

Vs.

1. Mr. Sudhagar ..1st Respondent/Petitioner
2. Mrs. V.Chitralekha ..2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.08.2004 in MACT OP No.1090 of 2003 on the file of the Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

For Appellant : Mr. J.Rajakalifulla

For Respondents : No Appearance for R2

J U D G M E N T

As against the claim made for a sum of Rs.3,00,000/-, the Tribunal has awarded a sum of Rs.75,000/- as compensation, in respect of the injuries sustained by the claimant / first respondent herein. Claiming that the said award is excessive, this Civil Miscellaneous Appeal has been filed by the Insurance Company.

2. The learned counsel for the appellant / Insurance Company submitted that no doctor was examined to prove the disability suffered by the claimant. The learned counsel also submitted that the Tribunal has passed the award by consolidating the claim without any specifications.

3. A perusal of the award of the Tribunal would reveal that the Tribunal has framed the issues, considered the same and based on the documents produced, rendered the findings.

4. In the award of the Tribunal, primarily, the Tribunal has considered the evidence of P.W.1-Claimant to show that the accident had taken place only on account of the rash and negligent driving on the part of the driver of the vehicle

belonging to the second respondent herein, which was insured with the appellant herein. Secondly, the Tribunal has dealt with the terms and conditions of the Insurance Policy between the appellant and the second respondent herein and ultimately held that the Insurance Company is liable to compensate the first respondent herein. Thirdly, the Tribunal has dealt with the manner of accident, the injuries sustained by the claimant and the just compensation for the injuries sustained. Finally, the Tribunal has arrived at the total compensation of Rs.75,000/- to the claimant / injured / first respondent herein.

5. All the above reasonings rendered by the Tribunal are based on documentary evidence available on record.

6. Added to the above, it is pertinent to point out that the appellant herein has not chosen to adduce any evidence with regard to the mode of accident. When a particular fact is within the special knowledge of the person concerned, it is his duty to produce the best evidence, but that evidence has not been produced by the appellant herein.

7. In view of the above reasonings, this Court is of the view that there is no error in the findings rendered by the Tribunal, warranting interference by this Court.

8. Accordingly, the award passed by the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Insurance Company is directed to deposit the award amount along with interest and costs, 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, the Tribunal shall transfer the amount lying in deposit to the Savings Bank Account of the first respondent/claimant through RTGS, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
I Additional Sub Court, Cuddalore.

Copy To : The Section Officer,
V.R. Section, Madras High Court,
Chennai.

+1cc to Mr.J.Rajakalifulla, Advocate SR.No.45532

C.M.A.No.2799 of 2005
& CMP No.13247 of 2005

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



WEB COPY