

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3024 of 2007
and M.P.Nos.1 and 2 of 2007

The Oriental Insurance Co.Ltd.
Pankaj Complex
89, Perambur Baracks Road
Chennai-7.

.... Appellant/2nd Respondent

Vs

1.P.Ashok Kumar
2.A.Ramesh Pandi
3.N.Murugadoss

.... Respondents/Petitioner,
Respondents 1 & 3

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 06.12.2006 made in MCOP No.5303 of 1999 on the file of the Motor Accidents Claims Tribunal, Chennai (II Judge, Small Causes Court, Chennai).

For Appellant : Mr.M.Rajasekhar

For Respondents : No appearance for R2

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.51,223/- 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 30.06.1998 at about 17.05 hours, the first respondent / injured was crossing the Periyar EVR High Road near Kanniyamman Koil Street Junction, Chennai. At that time, an auto-rickshaw owned by the second respondent herein, came in a rash and negligent manner, violating the traffic rules, and dashed against the first respondent / claimant. 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.51,223/- with interest at the rate of 7.5% 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 the Tribunal has erred in fixing the negligence on the part of the auto-rickshaw driver. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.It is seen that the respondents 1 and 3 are not ready in notice. Even though notice of admission was ordered way back in the year 2007, no steps have been taken by the appellant Insurance Company to serve papers to the other side.

7.During the cross-examination of the first respondent / claimant, no question has been asked by the appellant Insurance Company as to the manner in which the accident took place. Taking note of the materials and evidences adduced, the Tribunal came to the conclusion that the driver of the auto-rickshaw caused the accident by negligent driving, which this Court is not inclined to interfere.

8.With regard to the quantum of compensation awarded by the Tribunal, as per the evidence of P.W.3-Doctor, who treated the first respondent, it is seen that the claimant sustained injuries in nose. He also sustained fracture in the nose and there were changes in the alignment of the teeth, due to the injuries sustained. Hence the Doctor deposed that the injured sustained 25% disability, as per Ex.P9. The Tribunal, in fact, decreased the disability percentage to 20% and awarded a sum of Rs.25,000/- towards disability, which this Court is not inclined to interfere. The Tribunal has also awarded a sum of Rs.10,000/- towards pain and suffering, Rs.3,000/- towards nourishment, Rs.8,223/- (Rs.7,500/- + Rs.723/-) towards medical expenses and Rs.5,000/- towards loss of income during the treatment period. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petitions are 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-V)

//True copy//

Sub Assistant Registrar

KM

To

- 1.The Motor Accidents Claims Tribunal
Chennai (II Judge, Small Causes Court, Chennai).
- 2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mr.M.Rajasekhar, Advocate SR.No.49210

C.M.A.No.3024 of 2007
and M.P.Nos.1 and 2 of 2007

GMV (23/01/2020)

The seal of the Madras High Court is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. Below the lion is a red wheel. The entire emblem is set against a background of horizontal stripes in orange, white, and green. The words "HIS COURT OF JUDICATURE MADRAS" are written in a circular border around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

सत्यमेव जयते

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