

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2048 of 2008 and
M.P.No.1 of 2008

The Oriental Insurance Company Ltd
59, Raja Street
Gobichettipalayam

Appellant / 2nd Respondent

Vs

1. S.Parthasarathy
2. K.Elangovan

Respondents / claimant /
1st Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 10.12.2007 passed in M.C.O.P.No.973 of 2002 on the file of the Motor Accident Claims Tribunal(Fast Track Court No.IV), Additional District Court, Coimbatore at Tiruppur.

For Appellant : Mr.S.Manohar

J U D G M E N T

The Insurance Company has filed this appeal. The appellant is the 2nd respondent, the 1st respondent is the claimant and the 2nd respondent herein is the 1st respondent before the Tribunal.

2. The brief facts of the case are as follows:-

On 23.08.2001 at about 02.00pm, when the 1st respondent herein was riding his TVS Suzuki bearing Reg.No.TN 38 Z 4147 along with his friend by name Doss as a pillion rider, from Palladam to Tiruppur on the North South main Road, a bike bearing Reg.No.TN 37 F 7545 came from the opposite direction, in a rash and negligent manner and dashed against the 1st respondent's bike. Due to the said accident, the 1st respondent sustained grievous injuries and subsequently, he filed a Claim petition before the Tribunal. After elaborate trial, the Tribunal has awarded a sum of Rs.44,250/- under the following heads:-

S.No	Head	Compensation (in.Rs.)
1.	Towards Medical Expenses	17,250.00
2.	Towards Transportation Expenses	1,000.00
3.	Towards Extra Nourishment	1,000.00
4.	Towards injuries	20,000.00
5.	Towards pain and sufferings	5,000.00
Total		44,250.00

3. Heard the learned counsel for the appellant.

4. The main contention of the learned counsel for the appellant is that, in pursuance of the First Information Report filed by the police, no investigation was done and no charge sheet was filed; hence, fastening the liability on the appellant is incorrect. The next contention of the learned counsel for the appellant is that the award passed by the Tribunal under all the heads is disproportionate to the injuries sustained by the claimant.

5. A perusal of the award of the Tribunal would go to show that the complaint was filed on 29.01.2001 i.e., nearly after one month from the date of accident. It is stated in the First Information Report that the 1st respondent herein as well as one Doss, who was the pillion rider, sustained injuries and both of them were admitted in United Hospital, Coimbatore for treatment and after discharge, the 1st respondent was attending the injured Doss in the Hospital and thereafter, he filed a complaint. In the absence of direct or contra evidence, it was held that the accident had occurred on account of negligent driving of the rider of the two wheeler and the point was answered in favour of the claimant and against the Insurance Company. This Court finds no reason to interfere with such finding, since it is based on logical inference.

6. Further, while assessing the compensation, the Tribunal has taken into consideration Ex.A.2 Wound Certificate and Ex.A.3 Discharge Summary, which are the twin documents, normally, produced by the claimant to satisfy his claim. The Tribunal has meticulously rendered findings on those documents, which in the considered view of this Court, is perfectly valid and justified one. Thus the findings on negligence as well as quantum rendered by the Tribunal are confirmed as such.

7. In the result, 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 / injured / first respondent herein, through RTGS, within one week thereafter. Consequently, the connected MP is closed.

s/d-

Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

srk / vrn
To

1. The Motor Accident Claims Tribunal / (Fast Track Court No. IV),
Additional District Court, Coimbatore at Tiruppur
2. The Section Officer
V.R. Section
Madras High Court
Chennai 104

+1 CC to Mr. S. Manohar, Advocate sr 53381.

C.M.A.No.2048 of 2008
& M.P.No.1 of 2008

KJ (CO)
SP (02/03/2020)

सत्यमेव जयते

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