

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal Nos.3206 & 3207 of 2007
& M.P.Nos.1 and 1 of 2007

1. P.Selvakumaran ...A1/R1
2. National Insurance Co. Ltd.,
Divisional Office,
No.74-A Paramathi Road, Namakkal Taluk &
District 637 001 ... A2/R2 in both CMAs
Vs.

Kasthuri ... sole respondent/Petitioner
in CMA No.3206/2007
Madhaiyan ... sole respondent/Petitioner
in CMA No.3207/2007

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree, dated 20.04.2006, passed in MCOP Nos.137 & 138 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant (in both CMAs) : Mr. S.Arunkumar

J U D G M E N T

As against the claims made for a sum of Rs.5,00,000/- by the claimants / respondents herein, the Tribunal has passed awards for a sum of Rs.5,00,000/- and Rs.4,26,000/-, respectively, along with interests and costs. Challenging the same, the owner of the vehicle and the Insurance Company have filed these Appeals.

2. Despite notice ordered for more than five occasions, the respective respondents / claimants could not be served and hence considering the paucity of time, this Court takes-up the Appeals themselves on merits.

3. It is the case of the claimants that on 07.09.2003 when they were travelling in a TVS Moped bearing Registration No.TN29-C-0842, the lorry, owned by the first appellant herein and insured with the second appellant herein, which was driven by its driver in a rash and negligent manner, hit against the claimants and due to the said accident, the claimants / respective (sole) respondent(s) herein sustained grievance injuries. Stating so, they filed claim petitions claiming

compensation of Rs.5,00,000/- each.

4. Heard the learned counsel appearing for the appellants.

5. The learned counsel appearing for the appellants (owner of the vehicle and Insurance Company), in both the appeals, submitted that the Tribunal failed to note that the assessment on arriving the percentage of disability by P.W.-2 Doctor was not in accordance with the decisions reported by this Court; the award and decree of the Claims Tribunal is contrary to law, weight of evidence and probabilities of the case; in any event, the total compensation at Rs.5,00,000/- and Rs.4,26,000/- awarded by the Claims Tribunal is on the higher side.

6. There is no dispute with regard to the liability of the appellants to pay compensation to the respondents / claimants. Hence, this Court would like to deal with the quantum alone.

7. So far as the quantum of compensation awarded by the Claims Tribunal is concerned, in MCOP No.137 of 2004, the Tribunal has arrived at the annual income at Rs.4,60,800/- and further awarded sums of Rs.3,000/-, Rs.10,000/-, Rs.20,000/-, Rs.15,000/- and Rs.25,000/- under the heads of Transportation Expenses, extra nourishment, attendant charges, loss of earning during treatment period and loss of amenities, respectively and arrived at the total compensation at Rs.5,33,800/-, but restricted to Rs.5,00,000/-. As far as MCOP No.138 of 2004 is concerned, the Tribunal has determined the loss of income at Rs.3,78,000/-, and further awarded sums of Rs.3,000/-, Rs.10,000/-, Rs.5,000/-, Rs.10,000/- and Rs.20,000/- towards transportation expenses, extra nourishment, damage to vehicle, loss of earning during treatment period and pain and suffering, thus awarding total compensation at Rs.4,26,000/-.

8. The said awards passed by the Claims Tribunal are based on the documents produced by the claimants and in consonance / tune with the settled principles of law, weightage of evidence and probabilities of case. Having not adduced any evidence and not marked any document before the Tribunal, it is not open to the appellants herein, at this lengthy point of time, to contend that the awards passed are excessive.

9. Further the accident had taken place in the year 2003. After a period of sixteen years, it may not be proper for this Court to interfere with the quantum of compensation of Rs.5,00,000/- and Rs.4,26,000/- especially, when the prices are escalated manifold and there is reduction in the value of money.

10. Thus, this Court is of the view that the amounts of compensation, as already awarded by the Claims Tribunal, will be

fair enough to compensate the claimants / sole respondent(s) herein. Therefore, the Civil Miscellaneous Appeals filed by the appellants (owner of the vehicle and Insurance Company) have no merits. Thus, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected MPs are closed.

11. The appellant / Insurance Company (in both Appeals) shall deposit the entire compensation amounts, 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 claims Tribunal shall transfer the compensation amounts to the RTGS Account(s) of the respective claimants / respondents herein, within one week thereafter.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

srk

To

1. the Motor Accident Claims Tribunal,
Additional District Judge, Dharmapuri

2. The Section Officer,
V.R.Section, Madras High Court, Chennai

+1 cc to Mr.S.Arun kumar Advocate sr57077

C.M.A.Nos.3206 & 3207 of 2007

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