

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2094 of 2008
and M.P.No.1 of 2008

The Oriental Insurance Co.Ltd.,
No.8, Esplanade
Chennai -108

Appellant / 2nd Respondent

1.K.Ganesan
2.R.S.Tamilselvan

Vs
Respondents / Petitioner/and
1st Respondent

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.07.2006 made in MCOP No.2930 of 2002 on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellant : Mr.M.Rajasekar

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Insurance Company, as against the compensation of Rs.4,29,500/- awarded to the first respondent herein/claimant.

2.The case in brief is as follows:

2.1. On 18.09.2000, at about 8.30 hours, when the claimant /first respondent herein was riding the Motor cycle bearing Reg.No.TN 22 H3866, near to Maraimalai Adigalar Bridge, a TATA 709 Van bearing Reg.No.TN 67W8797, insured with the appellant Insurance Company, driven by its driver in a rash and negligent manner hit the claimant from backside. Due to the said accident, the claimant sustained grievous injuries. Stating so, he claimed a sum of Rs.5,00,000/- as compensation.

2.2. It is the case of the claimant / 1st respondent herein that he was aged 44, worked as Bank Assistant-cum-Cashier and earned Rs.13,500/- per month. Due to the said accident, he suffered fractures in clavical right neck and multiple injuries all over the body. The Tribunal has awarded a sum of Rs.4,29,500/- as compensation with the following break up details:-

S.No	Head	Compensation (in.Rs.)
1.	Medical expenses	7,500.00
2.	Transportation Expenses	2,000.00
3.	Loss of future earnings	4,00,000.00
4.	Pain & Sufferings	20,000.00
Total		4,29,500.00

3. Heard the learned counsel for the appellant Insurance Company.

4. It is the contention of the appellant Insurance Company that the negligence fixed by the Tribunal on the basis of criminal case filed against the 2nd respondent/driver is incorrect; and the age, avocation and quantum awarded are denied.

5. This Court is of the considered opinion that the award of the Tribunal has to be confirmed as such for more than one reason.

6. Firstly, no oral or documentary evidence were adduced by the appellant herein to prove their case before the Tribunal.

7. Secondly, the evidence of the Doctor proved the injuries sustained by the claimant. Also, there was eyewitness to the accident. The claimant himself examined as one of the witnesses. No cross examination was done on the side of the appellant herein.

8. Thirdly, Discharge Summary, Wound Certificate, Bills, Salary Certificate, Resignation Letter, First Information Report, Judgment of the trial Court, Insurance Policy, Disability Certificate, avocation details of the 1st respondent herein have been filed before the Tribunal, the same were discussed in detail and the findings were rendered on each and every documents.

9. Even to a naked eye, it is clear that the findings rendered by the Tribunal are based on settled principles of law and probabilities of the case and the ultimate quantum arrived at Rs.4,29,500/- as compensation is nothing but 'just'. Suffice to point out that the award passed is commensurate with the injuries sustained by the claimant, and nothing more or less.

10. In view of the above discussions, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is 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 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, forthwith, through RTGS.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srk/vrn
To

1.The Motor Accidents Claims Tribunal,
V Judge, Small Causes Court,
Chennai.

2.The Section Officer,
VR Section, Madras High Court.

+1 cc to M/s.M.Rajasekhar Advocate sr56036

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