

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2097 of 2008

and

M.P.No.1 of 2008

The Oriental Insurance Co.Ltd.,
Salem. Appellant

Vs.

1.Durai @ Duraisamy
2.Chellamuthu
3.Raman Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 27.07.2007 made in MCOP No.4 of 2004 on the file of the Motor Accident Claims Tribunal, Sub Court, Attur.

For Appellant : Mr.M.Rajasekhar

For Respondents : No Appearance

J U D G M E N T

This appeal is directed against the judgment and decree made in MCOP No.4 of 2004, dated 27.07.2007 on the file of the Motor Accident Claims Tribunal, Sub Court, Attur.

2. Claiming that the claimant/first respondent herein, sustained burn injury on his left leg, left hand as well as left elbow, during the course of the employment with the third respondent herein, the claimant has filed a claim petition, claiming a sum of Rs.5,00,000/- as compensation.

3. The Tribunal, on a consideration of the materials placed before it, has awarded a sum of Rs.1,15,000/-, the break up details of which are thus:-

Medical Expenses	-	Rs.	25,000
Transportation Expenses	-	Rs.	4,000
Extra Nourishment	-	Rs.	20,000

Loss of earning during the treatment period	-	Rs. 20,000
Future medical expenses	-	Rs. 6,000
Pain and suffering	-	Rs. 40,000

Total	-	Rs.1,15,000/-

4. The Tribunal has taken note of the contents in the petition, counter, witness account, framed the issues and ultimately rendered its findings and awarded a sum of Rs.1,15,000/- as compensation. As against which, this appeal is preferred by the Insurance Company.

5. Heard the learned counsel for the appellant.

6. The learned counsel for the Appellant/Insurance Company submitted that there was a delay of 84 days in lodging the complaint and hence, Ex.P-1, FIR should have been eschewed by the Tribunal and further, a sum of Rs.1,15,000/- awarded by the claims Tribunal is on the higher side.

7. This Court considered the said submissions and perused the materials available on record.

8. The Tribunal has framed the following issues for consideration:-

- "1. On whose negligence the accident had happened?
2. Whether the claimant is entitled to receive the compensation and if so to what extent?"

9. To answer these issues, the Tribunal has taken into account Ex.P-1-FIR, Ex.P-3-Motor Vehicle Inspector's report and Ex.P-4-Criminal Court Judgement and has come to a conclusion that the driver of the Heavy Goods rig vehicle mounted with Air Compressor was responsible for the negligence. The Tribunal has observed that the driver had accepted the guilt and also paid the fine amount before the Criminal Court. The Tribunal has also observed that the accident would be averted if the Rig vehicle was driven by the driver in a cautious manner. The Tribunal has also taken into account the insurance policy, which was in force at the time of accident.

10. All the narration of events, as stated supra, would only establish a fact that the injuries sustained by the claimant in the accident was due to the negligence on the part of the driver of the Rig vehicle. The findings of the Tribunal are also on the same lines, which this Court is not inclined to interfere.

11. As far as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal based upon the documents produced, has awarded a sum of Rs.1,15,000/-, by eschewing the heads of permanent disability, attendant charges and damage to cloths, which in the considered view of this Court, is in fact less and not more. Hence, this Court finds no grounds to interfere with the award so passed by the claims Tribunal.

12. Even assuming that the amount of compensation is lightly higher, considering the fact that the award was of the year 2007 and it has now become inadequate and having regard to the lapse of time and the reduction in value of money during this time, i.e., the prices of the commodities are escalated and the value of the money is reduced, the award to be utilized in the year 2019, cannot be said to be excessive.

13. 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, forthwith, through RTGS. Consequently, connected MP is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kv / srk

To

1.The Motor Accident Claims Tribunal,
Attur, Sub Court, Attur, Salem.

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

+1cc to Mr.M.Rajasekhar, Advocate, S.R.No. 56037

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SS(CO)
GN(15/11/2019)