

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3397 of 2006 and
M.P.Nos.2 of 2006 and 3/2006

M/s. The New India Assurance Co.Ltd
No.110, A.P.V.Mansion
Gandhi Market Road
Arani Taluk
Thiruvannamalai District ... Appellant / 2nd Respondent in
Tribunal below

Vs

1. Elumalai
2. B.Narayanamoorthy ... Respondents / Petitioner and
1st Respondent in Tribunal below

Prayer: Appeal under Section 173 of the Motor Vehicles Act
against the judgment and decree dated 02.11.2005 made in MCOP
No.30 of 2002 on the file of the Motor Accidents Claims
Tribunal/Subordinate Court, Arni.

For Appellant : Mr.P.G.Padmanabhan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by
the Insurance Company as against the award passed by the
Tribunal in MCOP No.30 of 2002 dated 02.11.2005.

2. In respect of an accident that took place on
10.12.2001 at about 9.05am near Palayam Junction, involving a
two wheeler and the bus, the injured, Elumalai (first respondent
herein) has filed a claim petition, before the Tribunal,
claiming a compensation of Rs.30,000/-. As against the said
claim, the Tribunal has awarded a sum of Rs.16,000/- as total
compensation. Against which, the Insurance Company has filed
the Appeal.

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

4. The learned counsel for the appellant has submitted that the Tribunal failed to note that the vehicle involved in the accident was not insured with the appellant Insurance company and the 1st respondent/petitioner was not produced the copy of the Insurance policy of the vehicle. The Tribunal ought to have dismissed the claim petition, since the 1st respondent / petitioner was not given the correct Insurance particulars in the claim petition. The learned counsel further submitted that the Tribunal erred in awarding Rs.16,000/- as compensation for the simple injuries sustained by the claimant. Hence, the award of the Tribunal needs interference by this Court.

5. Upon perusal of the award passed by the Tribunal, it is evident that the Tribunal has taken note of the contents of the First Information Report with the evidence of PW 1 and has fixed the liability on the 2nd respondent / appellant herein. Eventhough it is argued on the side of the appellant / Insurance Company that vehicle involved in the accident was not insured with them and the claimant has not produced the copy of the Insurance policy, neither oral nor documentary evidence has been placed by the appellant Insurance Company to substantiate the said contention. Hence, the negligence fixed by the Tribunal cannot be faulted, since the same is based on evidence and documents produced with no contra evidence on record.

6. As far as the quantum of compensation awarded by the Tribunal is concerned, it is observed from Ex.P.1 Wound Certificate that the claimant took treatment at Government Hospital, Arani and the injuries sustained by him are very simple in nature. Further, it is evident that the claimant was earning a monthly salary of Rs.3,000/- by doing agriculture and flower business. In the absence of any proof for proving his age and avocation, the Tribunal has taken into consideration the nature of injuries and come to the conclusion that the the claimant is entitled to Rs.16,000/- as just compensation.

7. Also, the Tribunal has awarded the said sum of Rs.16,000/- under the head "eight injuries" awarding Rs.2,000/- per injury. Had there been break up details of compensation, this Court would have analysed the same and would have reduced the compensation that has to be ultimately payable. The total compensation itself Rs.16,000/- passed during 2002, which during the year 2019 cannot be said to be on the higher side, when compared to the injuries sustained by the claimant. As such, this Court is of the opinion that the compensation of Rs.16,000/- awarded by the Tribunal is just and reasonable and the same cannot be said to be excessive or exorbitant, warranting interference of this Court.

8. In such view of the matter, the Civil Miscellaneous Appeal is dismissed by affirming the award passed by the Tribunal. No costs. 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 / Respondents 1 herein, through RTGS, within one week thereafter. Consequently, connected miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal/ Subordinate Court,
Arni.

Copy to

The Section Officer,
V.R. Section,
Madras High Court,
Chennai 104.

+1cc to M/s.P.G.Padmanabhan, Advocate Sr.67053

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and 3 of 2006

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