

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2196 of 2008

and

M.P.No.1 of 2008

National Insurance Company Ltd.,
Branch Office, No.81-D, Chetty Street,
Thiruchencode, Namakkal District.

.. Appellant/2nd respondent

Vs.

1. K.C.Mohan ..1st respondent/Claimant
- 2.N.Raja ..1st Respondents/1st respondent
- 3.

(The second respondent set exparte before the Tribunal
Hence notice to the second respondent
may be dispensed with.)

Prayer: This Civil Miscellaneous Appeal is filed under
Section 173 of Motor Vehicles Act, 1988, against the Judgment
and Decree dated 23.4.2007 made in MCOP.No.838 of 2004 on the
file of Motor Accidents Claims Tribunal, Subordinate Court,
Dharmapuri.

For Appellant : Mr. N.Vijayaraghavan
For R1 : M.Selvam

सत्यमेव जयते

J U D G M E N T

This appeal is preferred by the Insurance Company
against the award of a sum of Rs.8,34,417/- towards
compensation to the first respondent/claimant due to the
injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 15.04.2004, at about
7.45am, when the first respondent/claimant was proceeding in
his Scooter bearing registration No.TAD-0207 to Dharmapuri
Bus stand from his house, near Dharmapuri Bus stand, the
TATA Sumo vehicle bearing registration No.TN-21-B-2489 came

in a rash and negligent manner and hit the claimant. Due to the said impact, the first respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.8,34,417/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Insurance Company has challenged only the quantum of compensation awarded by the Tribunal by contending that the same is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent and hence, the same has to be reduced substantially.

5.The learned counsel for the first respondent / claimant has submitted that the Tribunal has considered all the materials and evidence available on record and has rightly awarded the compensation which is just and reasonable, and hence the same does not call for any interference by this Court.

6.Heard the learned counsel on both sides and perused the materials available on record carefully and meticulously.

7.Since the learned counsel for the appellant Insurance Company has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the TATA Sumo vehicle, the said finding of the Tribunal need not be interfered with by this Court.

8.As regards the quantum of compensation awarded by the Tribunal, the first respondent/claimant himself examined as P.W.1, who deposed that he was aged 55 years and was earning a sum of Rs.13,993/- per month as a Revenue Supervisor; he has also produced salary certificate which was marked as Ex.P6. The first respondent initially took treatment in the Government Hospital, Dharmapuri and thereafter, at Coimbatore, Ganga Hospital, as in-patient for a period of three months. P.W.2/Doctor, who examined the claimant, deposed in his evidence that the first respondent/claimant sustained fractures and grievous injuries. After assessing the first respondent/claimant, the doctor issued Ex.P11-disability certificate fixing his permanent disablement at 40%. The Tribunal, after taking note of the age, avocation,

income and the injuries sustained by the first respondent/claimant, fixed the monthly income of the first respondent/claimant at Rs.13,993/-, calculated the annual income at Rs.1,67,916/-, deducted 1/3rd amount towards personal expenses and adopted the multiplier of 11 and arrived at the compensation under the head "loss of income due to disability" at Rs.4,92,553/- for 40% disability. The Tribunal has rightly determined the monthly income, adopted the correct multiplier and assessed the loss of income for the permanent disability suffered by the first respondent/claimant and hence, the same need not be interference with by this Court. That apart, the Tribunal has awarded Rs.61,455/- towards medical expenses, Rs.3,500/- towards transportation charges, Rs.15,000/- towards loss of expectation of life, Rs.5000/- towards extra nourishment, Rs.10,000/- towards attendant charges. The amounts so awarded are based on the materials and evidence adduced by the first respondent/claimant and hence, the same are confirmed by this Court.

9. However, the sums of Rs.1,81,909/- towards pain and suffering and Rs.70,000/- (Rs.20,000/- + Rs.50,000/-) towards future medical expenses are slightly on the higher side and the same are hereby reduced to Rs.1,00,000/- and 20,000/- respectively, considering the nature of the injuries sustained by the first respondent/claimant and having regard to the facts and circumstances of the case. There is no modification with regard to the rate of interest at 7.5% pa awarded by the Tribunal. Accordingly, the compensation awarded by the Tribunal is hereby reduced from Rs.8,34,417/- to Rs.7,02,508/-.

10. In fine, this Civil Miscellaneous Appeal is partly allowed. No costs. The appellant-Insurance Company is directed to deposit the aforesaid modified compensation amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit, the first respondent/claimant is permitted to withdraw the amount lying in the deposit, on making proper application before the Tribunal. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

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

+1cc to Mr.M.Selvam , Advocate SR.No. 58728

+1cc to Mr.N.Vijayaraghavan , Advocate SR.No. 59890

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A.SK(16/07/2020)



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