

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.06.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.2331 of 2008
and M.P.1 of 2008

The Oriental Insurance Company Ltd
Neyveli

Appellant / 2nd Respondent

Vs

1. Kandan1st Respondent/ Petitioner
2. M.Duraisamy2nd Respondent/1st Respondent
3. M/s. Ajith Transport
103 East Mada Church Street
Royapuram
Chennai3rd Respondent/4th Respondent
4. United India Insurance Company Ltd
Chennai-34th Respondent/4th Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 28.04.2006 passed in M.C.O.P.No.91 of 2006 on the file of the Motor Accident Claims Tribunal(Fast Track Court No.III), Additional District Tribunal, Virudhachalam.

For Appellant : Mr.M.Rajasekhar

J U D G M E N T

The first respondent herein sustained multiple injuries all over the body and a fracture in his head, in respect of the accident that took place on 09.01.2005 involving the 2nd respondent's vehicle, which was insured with the appellant herein. The Tribunal has framed issues, fixed the liability on the part of the 2nd respondent and the appellant herein and arrived at a quantum of compensation of Rs.1,45,711/- payable to the 1st respondent, against which, this appeal is preferred by the appellant / Insurance Company.

2. Heard the learned counsel for the Insurance Company.

3. The award passed by the Tribunal on all heads is disproportionate to the injuries sustained by the claimant / first respondent, is the main contention of the learned counsel for the appellant.

4. The parameters, on which the Tribunal has considered the points for determination are worthwhile to assess the correctness of the award. The Tribunal has taken into consideration Ex.P.2 Motor Vehicle Inspection Report, which was given by the Motor Vehicle Inspector, to the effect that the accident had occurred only due to the rash driving of the 2nd respondent herein. Further, the Accident Register and the Insurance Policy would establish the fact that the vehicle, which was driven by the 1st respondent was insured with the appellant herein and the policy was in force at the time of accident. Further, to assess the disability, Doctor/ PW 2 has been examined, who spoke about the disability on the forehead and fracture on the leg and hip of the 1st respondent herein. The Tribunal has correctly taken note of these factors and quantified the compensation.

5. Further, no evidence was let in and no document was marked by the appellant herein before the Tribunal. Nothing prevented the appellant herein from doing so, at the earliest point of time and leaving the same, it cannot be permitted to say, at this later stage, that the award passed is not in consonance with the injuries sustained by the 1st respondent.

6. In view of the above reasonings, this Court finds no irregularity or illegality in the award passed by the Tribunal, which is purely based on the documentary evidence and probabilities of the case. Hence, viewing from all squares, this Court finds no ground to interfere with the judgment passed by the Tribunal below.

7. 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, through RTGS, within one week thereafter. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

srk / vrn

To

1. The Motor Accident Claims Tribunal/(Fast Track Court No.III), Additional District Tribunal, Virudhachalam

2. The Section Officer

V.R.Section,

Madras High Court, Chennai 104

+lcc to Mr.Raja sekar , Advocate SR.No. 53735

C.M.A.No.2331 of 2008

& M.P.No.1 of 2008