

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.597 of 2007

and

M.P.No.1 of 2007

The Oriental Insurance Co. Ltd.,
25-C, Arunagiri Complex,
3rd Floor, Bye Pass Road,
Hosur - 635 109.

... Appellant/2nd Respondent

Vs.

1. Kandasami
2. Karthikeyan
(Second respondent set-exparte
before the Tribunal)

... Respondents/Claimant & 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.9.2006 made in MCOP.No.39 of 2004 on the file of Motor Accidents Claims Tribunal, (Sub-Court) Krishnagiri.

For Appellant : Mrs. V.Ambika

J U D G M E N T

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,40,000/- 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 08.10.2003, at about 10.00 am, when the first respondent/claimant was proceeding in his cycle on Oddapatti to Industrial Centre Road, a Tempo van bearing Registration No.TN30-C-1612 belonging to the second respondent and insured with the appellant Insurance Company, came in a rash and negligent manner and hit the first respondent/claimant from behind. Due to the said impact, the first respondent/claimant sustained grievous injuries, for which, he filed a claim petition claiming a sum of Rs.2,00,000/- as compensation. On

consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,40,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant - Insurance Company has disputed only the quantum of compensation. According to her, the compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent/claimant and hence, the same has to be reduced.

4.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5.Even though this appeal was admitted and a conditional order of interim stay was granted way back in the year 2007, the appellant Insurance Company has not taken proper steps to serve papers to the respondents, even at this length of time. However, considering the fact that the appeal is of the year 2007, this Court is inclined to proceed with the appeal on merits.

6.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 Tempo and hence, the said finding of the Tribunal need not be interfered with by this Court.

7.As regards the quantum of compensation, P.W.1/respondent/claimant in his evidence, deposed that he was aged 55 years and was earning Rs.1,500/- per month by working as Watchman; in the accident, he sustained multiple injuries and fracture. Ex.P2 wound certificate and Ex.P6 disability certificate to the tune of 35%, supported the evidence of P.W.1 with regard to the injuries and fracture sustained by him. The Tribunal, after considering the materials and evidence let-in by the respondent/claimant, has determined Rs.60,000/- towards injuries, Rs.10,000/- towards pain and suffering, Rs.27,406/- towards permanent disability, Rs.20,000/- towards loss of earning power, Rs.10,094/- towards medical expenses, Rs.3,000/- towards attendant charges, Rs.3,000/- towards extra nourishment, Rs.500/- towards damages, Rs.3,000/- towards transportation, Rs.3,000/- towards loss of future earning and thus, awarded Rs.1,40,000/- as total compensation. Having regard to the nature of the injuries sustained and the period of treatment taken by the respondent/claimant, the amounts so awarded by the Tribunal under the above heads, are just and reasonable and hence, the same are hereby confirmed.

8.Hence, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Insurance Company is directed to deposit the entire award 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 Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS, within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Sub Judge,
The Motor Accidents Claims Tribunal,
The Sub-Court, Krishnagiri.

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

+lcc to Mrs. V.Ambika, Advocate SR.No.49239

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BR(CO)
GMY(10/02/2020)

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