

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.491 of 2006
and
C.M.P.No.1795 of 2006

The National Insurance Co.Ltd.,
rep.by its Branch Manager
88-F Bye Pass Road
Dharmapuri-636 701. Appellant /2nd Respondent

Vs

1.Minor Victoria
rep.by her father and next friend
Chinnasamy 1st Respondent/Petitioner

2.V.K.Ramamoorthy Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 17.12.2004 made in MACTOP No.559
of 2000 on the file of the Motor Accidents Claims Tribunal cum
Additional District Court, Dharmapuri.

For Appellant : Mr.S.Vadivel

For Respondents : No appearance for R2

JUDGMENT

This appeal is preferred by the appellant Insurance Company
against the award of a sum of Rs.1,20,000/- towards compensation
to the first respondent, due to the injuries suffered by her in
a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 19.03.1999, the first respondent
was walking in the Dharmapuri-Krishnagiri Highways Road keeping
left side of the road. At about 16.15 hours, when she was
proceeding near Lakshmi Theatre, the two-wheeler (TVS-50)
bearing Reg.No.TN-29-C-0831 belonging to the second respondent
herein, came in a rash and negligent manner and dashed against

the first respondent. Due to the said impact, she sustained injuries all over the body. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,20,000/- with interest at the rate of 9% 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 questioned the award of the Tribunal only on quantum. He submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.It is seen that batta with petition due in respect of the first respondent. The appellant Transport Corporation has not taken steps to serve papers to the respondents, even at this length of time.

7.The learned counsel for the appellant has not questioned the liability aspect. Hence the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of TVS-50 insured with the appellant Insurance Company, need not be interfered with by this Court.

8.Ex.P2 is the Wound Certificate. On a perusal of the same, it is seen that the injured sustained injuries in her right leg foot, upper lip, right portion of the forehead, right elbow and out of the said injuries the second injury was grievous in nature. Further, there were fractures in the right leg. Ex.P7 is the Disability Certificate, from which it is seen that the injured suffered 45% disability. Even though the Doctor certified the disability at 45%, the Tribunal reduced the same to 35% and awarded a sum of Rs.35,000/- towards disability. The Tribunal has also awarded a sum of Rs.2,000/- towards transport expenses, Rs.3,000/- towards nourishment, Rs.30,000/- towards pain and suffering and Rs.50,000/- towards loss of happiness, since she being a student, and in all, awarded a total compensation of Rs.1,20,000/-. The Tribunal has properly analysed the materials and evidence available on record and has awarded reasonable compensation towards the above heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. 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 six weeks from the date of receipt of a copy of this judgment. The first respondent / claimant would have attained majority by now. Hence, on such deposit being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
cum Additional District Court, Dharmapuri.

Copy To

The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Vadivel, Advocate, S.R.No. 49975

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VG II(CO)
GN(14/11/2019)

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