



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.890 of 2007

Branch Manager,
National Insurance Co.Ltd.
Branch Office
11, Maruti Complex
Omalur Main Road
Salem-4.

... Appellant/2nd Respondent

Vs

1.Murali ...1st Respondent/ Petitioner

2.G.Ramamoorthy
(2nd respondent ex-parte before Lower Court
and hence notice may be dispensed with).
... 2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.08.2006 made in MCOP No.461 of 2004 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No.2, Krishnagiri at Dharmapuri District.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.57,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 31.10.2003 at about 12.00 noon, when the first respondent was proceeding in his TVS Super XL Vehicle bearing Reg.No.TN-29-F2198 in the Rayakotta to Panjapalli Road towards Koothandahalli, keeping the left side of the road, the bus bearing Reg.No.TN-29-F-1777 belonging to the second respondent and insured with the appellant Insurance Company, driven by its driver in a rash and negligent manner, came from the opposite direction and dashed against the two-wheeler which the first respondent was riding. Due to the said impact,



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the first respondent fell down and sustained injuries. 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.57,000/- 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 submitted that the Tribunal has erred in fastening the liability on the appellant Insurance Company. He also submitted that 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 the respondents are not ready in notice. Even though this appeal was admitted way back in the year 2007, no proper steps have been on the side of the appellant Insurance Company to serve papers to the other side.

7.Ex.P1-First Information Report has been filed against the driver of the bus. The Registration Number of the bus has been clearly mentioned in the First Information Report. A perusal of Ex.P2-Wound Certificate and Ex.R5-Copy of Accident Register, showed that the claimant took treatment in the Dharmapuri Government Hospital. Only after a delay of 3 years from the date of accident, Ex.R1-Enquiry Report was filed. The appellant Insurance Company had not come forward to examine the second respondent, to disprove the accident. Taking note of all these factual scenario, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.With regard to the quantum of compensation, the Tribunal has awarded Rs.25,000/- towards pain and suffering, Rs.20,000/- towards disability, Rs.10,000/- towards medical expenses and Rs.2,000/- towards nourishment. 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.



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9. In the result, the Civil Miscellaneous Appeal is dismissed. 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 six weeks from the date of receipt of a copy of this judgment. 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(CS)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate No.2,
Krishnagiri at Dharmapuri District.

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

+1cc to Mr.N.Vijayaraghavan , Advocate SR.No. 50788
C.M.A.No.890 of 2007
A.SK(13/11/2019)