

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.590 of 2006
and
C.M.P.No.2324 of 2006

M/s.Oriental Insurance Co.Ltd.
8A, Esplanade
Chennai - 600 108. Appellant/2nd Respondent

Vs

1.P.KumarIst Respondent/Petitioner
2.J.Anandan2nd Respondent/Ist Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 15.07.2005 made in MCOP No.369 of 2001 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.S.Janarthanam

For R1 & R2 : No Appearance

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.73,400/- towards compensation to the first respondent, due to the injuries sustained by him in a motor vehicle accident. सत्यमेव जयते

2.The case in brief, is as follows:

On 16.09.2000 at about 08.00 hours, while the first respondent herein was riding his bicycle in 100feet Jawaharlal Nehru Road, Ashok Nagar, the Car bearing registration No.TN-21-U-7767 came in a rash and negligent manner and hit the first respondent from behind. Due to the said impact, the first respondent sustained grievous injuries. Stating so, he filed a claim petition claiming a sum of Rs.1,50,000/- as compensation. The Tribunal, on consideration of the materials and evidence available on records, awarded a total compensation of Rs.73,400/- with interest at 9%pa 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 submitted that when the first respondent was also equally responsible for the accident, the Tribunal has erred in giving a finding that the accident had occurred only due to rash and negligent driving of the driver of the Car. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced substantially.

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

5.Despite the service of notice, there is no representation on behalf of the respondents.

6.P.W.1/first respondent/claimant has deposed that on 16.09.2000 at about 08.00 a.m., when he was riding his bicycle in 100 feet Jawaharlal Nehru Road, Ashok Nagar from North to South direction, the driver of the Car bearing Registration No.TN-21-U-7767 drove the vehicle in a rash and negligent manner and hit the first respondent from behind and thereby, caused the accident. Ex.P4 FIR and Ex.P5 rough sketch corroborated the evidence of P.W.1. To rebut the same, there was no evidence adduced either in oral or documentary, on the side of the appellant insurance company. The Tribunal, based on those oral and documentary evidence, has rightly come to the conclusion that the accident occurred only due to rash and negligent act on the part of the driver of the Car, which this Court is not inclined to interfere.

7.With regard to the quantum of compensation, the Tribunal has awarded Rs.5,000/- towards loss of income, Rs.1,000/- towards transportation, Rs.1,000/- towards extra nourishment, Rs.1,400/- towards medical expenses, Rs.10,000/- towards pain and suffering, Rs.35,000/- towards permanent disability and Rs.20,000/- towards loss of future earning capacity and in totalling a sum of Rs.73,400/-. The Tribunal, taking note of the nature of the injuries sustained by the first respondent/claimant through the evidence of P.W.2/doctor and Exs.P6 disability certificate and P7-X ray and also other materials and evidence, has awarded the said compensation under those heads and the same are just and very reasonable and hence, the same need not be interfered with by this Court.

8.However, the rate of interest at the rate of 9% p.a. awarded by the Tribunal is slightly on the higher side, considering the date of accident i.e., on 16.9.2000 and hence, the same is hereby reduced to 7.5% p.a.

9. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the compensation of Rs.73,400/- with interest at 7.5% per annum from the date of petition, less 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 Tribunal shall transfer the amount lying in the deposit to the bank account of the first respondent / claimant through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
III Small Causes Court,
Chennai.

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

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and
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pvs[col]
srg 18/09/2020

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