

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HON'BLE MR. JUSTICE **R.MAHADEVAN**

Civil Miscellaneous Appeal No.4254 of 2005
& CMP No.20698 of 2005

The Branch Manager,
The Oriental Insurance Company Limited,
3-L Siddaveerappa Chetti Street,
Dharmapuri

... Appellant

..Vs..

1. Samikannu
2. Mohamed Ali

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 28.06.2005 made in MACTOP No.359 of 2000 on the file of the Motor Accident Claims Tribunal, Additional District Court, Dharmapuri at Krishnagiri.

For Appellant : Mr. M.Krishnamoorthy

सत्यमेव जयते

JUDGMENT

As against the claim made for a sum of Rs.3,00,000/- by the injured / claimant / first respondent herein, the Tribunal has passed an award for a sum of Rs.2,36,087/-. Challenging the same, the Insurance Company has filed this Appeal.

2. The main contention raised by the learned counsel for the appellant / Insurance Company is that the claimant / first respondent herein had suddenly crossed the road unmindful of the vehicles and thus, he had contributed to the accident. He further submitted that the injuries sustained by the claimant did not affect his avocation and hence the award is unsustainable.

3. A perusal of the award passed by the Tribunal would go to show that the claimant has suffered two grievous injuries and one simple injury in respect of which he has taken treatment at Government Hospital, Dharmapuri. The Doctor has deposed that the claimant has contusion on the left hand wrist 5x4 cms, right shoulder pain and tenderness 10x4 cms and contusion on the left foot dorsum 4x3 cms. Taking note of the same, the Tribunal has taken the disability at 55%. To arrive at such a conclusion, the Tribunal has relied upon Exs.P-1, P-2 and P-6.

4. The said findings of the Tribunal are based on evidence and documents available on record. Hence, this Court finds no reason to interfere with the same.

5. As far as the quantum is concerned, the Tribunal has taken the monthly income at Rs.2,500/- and estimated the compensation, which in the considered view of this Court, cannot be said to be erroneous or incorrect. Further, the amount awarded under pecuniary and non-pecuniary damages are in consonance with the settled principles of law and weight of evidence. Hence, the cumulative circumstances taken together while assessing the quantum of compensation by the Tribunal are perfectly justified.

6. In view of the above, the Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

7. The appellant / Insurance Company is directed to deposit the compensation amount, as awarded by the Tribunal, along with interests 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 judgment. As it is stated that R-1 died, on such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the L.R.(s) of the injured / claimant / first respondent herein, forthwith, through RTGS.

14.06.2019

Index : Yes / No

Web : Yes / No
srk

R.MAHADEVAN, J.,

srk

To

1. Motor Accident Claims Tribunal, Additional District Court,
Dharmapuri at Krishnagiri.
2. The Section Officer, V.R.Section, High Court, Madras



C.M.A.No.4254 of 2005
& CMP No.20698 of 2005

WEB COPY

10.06.2019