



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

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.702 of 2006

M/s.National Insurance Co.Ltd.
88-F, Bye Pass Road
Dharmapuri.

... Appellant2nd respondent

Vs

1.Thangadurai

.. Respondent/Petitioner

2.M.Kumaravel

(Ex-parte in the Lower Court).... Respondents/ Respondents

Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 18.11.2003 made in MCOP No.26 of 2003 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Krishnagiri.

For Appellant	: Mrs.R.Sreevidhya
For Respondent	: R2 Exparte
	R1 Incorrect Address

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.2,16,600/- 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 30.04.2002, the first respondent / claimant was proceeding to Kaveripattinam in the Dharmapuri-Krishnagiri Main Road, in the TVS-50 Moped bearing Reg.No.TN-29-E-0577 belonging to the second respondent and insured with the appellant Insurance Company, as pillion rider. At about 02.30 p.m., when the moped reached near Paiyur Bus Stop, the rider of the moped drove it in a rash and negligent manner at high speed and while trying to overtake a bus, he applied sudden brake. Due to the said impact, the first respondent was thrown out of the two-wheeler and sustained multiple 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.2,16,600/- 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 disputed the quantum of compensation awarded by the Tribunal. She 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 notice sent to the first respondent has been returned as incorrect address. Even though this appeal was admitted way back in the year 2006, no proper steps have been on the side of the appellant Insurance Company to serve papers to the first respondent.

7.Since the appellant Insurance Company has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the rider of the two-wheeler, need not be interfered with.

8.With regard to the quantum of compensation, the Tribunal has awarded Rs.1,83,600/- towards disability, discomfort and future loss of earning capacity. Even though the claimant claimed before the Tribunal that he was earning a sum of Rs.7,000/- per month through poultry business as well as agriculture, since no documents available to that effect, the Tribunal came to the conclusion that the claimant/injured would have earned not less than Rs.3,000/- per month and accordingly calculated the annual income at Rs.36,000/-. Thereafter, adopting the multiplier of 17, arrived at the sum of Rs.6,12,000/-, but awarded a sum of Rs.1,83,600/- towards 30% disability. The Tribunal has correctly analysed the income of the injured, adopted the correct multiplier and arrived at Rs.1,83,600/- proportionate to 30% disability. Hence, the same is confirmed. With regard to other heads, the Tribunal has awarded a sum of Rs.3,000/- towards extra nourishment, Rs.25,000/- towards grievous injuries and Rs.5,000/- towards pain and suffering. 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 with interest, as ordered by the Tribunal, 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,
(Subordinate Judge), Krishnagiri.

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

+1cc to Mrs. R. Sreevidhya, Advocate SR.No. 51128

C.M.A.No.702 of 2006

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A.SK(30/09/2019)