

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.705 of 2006
and C.M.P.No.2885 of 2006

M.K.Somasundaram

... Appellant/1st
Respondent

Vs.

1.Mohanangi

... 1st Respondent/
Petitioner

2.New India Insurance Co. Ltd.,
No.110, Gandhi Road,
Arni.

... 2nd Respondent/
2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.03.2005 made in M.C.O.P.No.74 of 2000 on the file of the Motor Accidents Claims Tribunal, Arni.

For Appellant : Mr.A.Jenasenan

For R1 : Mr.P.Satheesh Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order and decree dated 29.03.2005 passed by the Motor Accidents Claims Tribunal, Arni, in M.C.O.P.No.74 of 2000.

2.The case in brief is as follows:

On 19.12.1999 at 7.00 p.m., the 1st respondent went to the shop for purchasing vegetables. When she was walking at Dhurugam @ Ramasanikuppam, the Motorcycle bearing Regn.No.TN25 Y 4420 belonging to the appellant herein came in a rash and negligent manner and hit the first respondent. As a result of the same, she sustained injuries on the left leg, besides receiving injuries all other parts. She was first taken to Government Hospital Vellore and given treatment for 2 days and later she was transferred to C.M.C Hospital for further Medical Treatment, wherein, she took treatment for 20 days. Stating so,

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she filed a claim petition claiming a compensation of Rs.1,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.23,185/- with interest at 9%pa from the date of petition, which was payable by the owner of the vehicle. Aggrieved over the same, the owner of the offending vehicle has come up with this appeal.

3.The learned counsel for the appellant submitted that without considering the fact that the first respondent, due to her old age and being deaf and had bad vision, fell in the ditch nearby and the appellant only lifted her and admitted in the hospital on humanitarian ground, the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent riding of the rider of the motorcycle. He also submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant.

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

5.P.W.1/first respondent/claimant has deposed in her evidence that on 19.12.1999, when she was walking on the road side, the appellant rode his motorcycle rashly and negligently and hit the first respondent and thereby caused the accident. The manner of accident as narrated by P.W.1, was supported by Ex.P1 First Information Report. The claim of the first respondent/claimant was stoutly refuted by the appellant, in the counter statement as well as in his evidence as R.W.1, who stated that the claimant sustained injuries, due to her own fault and the appellant was not responsible for the accident, in fact, he only admitted her in the hospital. However, no authenticated document was produced to substantiate his evidence. Hence, the Tribunal, placing reliance on the materials and evidence available on record, has rightly concluded that the accident had occurred due to the rash and negligent act on the part of the appellant, which finding this Court is not inclined to interfere.

6.As regards the quantum of compensation, P.W.1/first respondent/claimant has stated in her evidence that she sustained grievous injuries in her leg, besides receiving injuries in all over the body. Ex.P2 is the CMC hospital slip. Ex.P3 is the wound certificate. Ex.P4 is the medical bill and Ex.P5 is the receipt for payment of rent to Car. Based on the said oral and documentary evidence, the Tribunal has awarded Rs.5,000/- towards pain and suffering and extra nourishment, Rs.2,000/- towards transportation charges, Rs.5,000/- towards

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injuries and Rs.11,185/- towards Medical Expenses. This Court is of the view that the amounts awarded by the Tribunal under the various heads, are just and reasonable and hence, the same need not be interfered.

7.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. It is now represented by the learned counsel for the first respondent that the first respondent/claimant died during the pendency of the appeal. In view of the same, the legal heirs of the deceased first respondent/claimant are permitted to withdraw the amount lying in the deposit, on making proper application before the Tribunal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rna/rk

To

1.The Motor Accidents Claims Tribunal,
Arni.

Copy to:

2.The Section Officer,
V.R. Section,
High Court, Madras.

सत्यमेव जयते

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