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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.925 of 2006 and

C.M.P.No.3645 of 2006

The Branch Manager,
M/s National Insurance
Company Limited, Branch Office,
88-F, Bye-Pass Road,
Dharmapuri Branch.

... Appellant

Versus

1.Minor Sakthivel

2.K. Sivakumar

... Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree dated 09.02.2005 made in M.C.O.P.No.1748 of 2003 on the file of the Motor Accident claims Tribunal(1st Additional District Judge) Dharmapuri at Krishnagiri.

For Appellant :Mr.M.Krishnamoorthy

For Respondent 1 :Mr.V.Kumaravelu

R2 : Exparte

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated 09.02.2005 made in O.P.No.1748 of 2003 on the file of the Motor Accident claims Tribunal(1st Additional District Judge) Dharmapuri at Krishnagiri.

2. On 06.05.2000 at about 12.00 p.m when the first respondent herein was walking on the Palacode road at Kalguddapatti village near Kesarguli Dam, the second respondent herein came in the Hero Honda Motor Cycle bearing Registration No. TN29/A7507 at a very high speed and dashed the first respondent. In the result the first respondent herein sustained injuries. The accident occurred only due to the rash and



negligent act of the driver. Therefore, the first respondent herein filed M.C.O.P.No.1748 of 2003 on the file of the Motor Accidents Claims Tribunal, 1st Additional District Judge, Dharmapuri at Krishnagiri, seeking compensation for a sum of Rs.5,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.1,93,336/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard both sides and perused the materials available on record.

5. The appellant raised various grounds including the interest at 9% interest which is exorbitant. Hence, the appellant prayed to set aside the award amount. Admittedly, the Tribunal has considered the case in well manner and the same is awarded with correct heads. But, I am not inclined to allow the interest at the rate of 9% and hence it is liable to be modified to 7.5%. Accordingly the interest portion alone is modified to 7.5% instead of 9%.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which requires no interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, is a reasonable one.

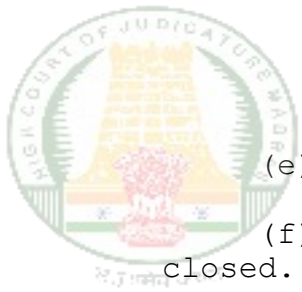
7. In the result,

(a) this appeal is partly allowed. The interest rate awarded by the Tribunal is reduced to 7.5% from 9.5%. All other observations made by the Tribunal shall remain intact.

(b) the appellant/Insurance is directed to deposit the enhanced amount, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit, the first respondent/minor is directed to file proper application before the Tribunal and withdraw his share amount.

(d) The amount apportioned as compensation to the minor/first respondent is directed to be deposited in a Nationalised Bank till they attain majority, however, the father of the claimant is permitted to withdraw accrued interest once in three months.



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(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To.

1. The Motor Accident Claims Tribunal,
1st Additional District Judge, Dharmapuri at Krishnagiri.

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

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.17692

+1cc to Mr.V.Kumaravelu, Advocate SR.No.18855

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AD (CO)
GMY (03/10/2019)