IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.306 OF 2008
AND
M.P.NO.1 OF 2008

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,
D.B.Road, R.S. Puram,
Coimbatore – 2. ...Appellant/3rd Respondent

Vs

1.M.Meenakshi Sundaram,
2.G.S.Yuvaraj
3.Sivakumar .. 1st Respondent/Petitioner

(Respondents 2 & 3 ex-parte
before Lower Court. Hence,
Batta Not Paid) ... 2nd & 3rd Respondents/
2nd & 3rd Respondents

Prayer:
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 02.03.2007 made in M.A.C.T.O.P.No.1188 of 2006, on the file of Motor Accidents Claims Tribunal, Sub-Court, Coimbatore.

For Appellant : Mr.Vijayaraghavan

For R1 : No Appearance

For R2 & R3 : Ex-parte

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J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 02.03.2007 passed in M.A.C.T.O.P.No.1188 of 2006, on the file of Motor Accidents Claims Tribunal, Sub-Court, Coimbatore.

2. One M.Meenakshi Sundaram, aged 24, Salesman-cum-Store Keeper, earning a sum of Rs.2,500/- per month, met with an accident on 26.10.2005 at 12.30 p.m., while he was walking in

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the road. He was hit by the rider of the two-wheeler bearing Registration No.TN 37 AA 0582. Due to the said accident, the first respondent herein / claimant sustained grievous injuries. Stating so, the claimant filed a claim petition claiming a sum of Rs.1,50,000/- as compensation.

3. The appellant herein disputed the factum of accident and liability to pay compensation before the Tribunal.

4. The Tribunal framed the following issues for consideration, viz., (i) whether the accident had happened only due to the negligent driving of the rider of the two-wheeler; and (ii) whether the claimant is entitled to receive the compensation and if so, to what extent.

5. The Tribunal based on the materials and by way of findings, quantified the compensation at Rs.41,500/- with the following break up details:

S. No.	Description	Amount awarded by Tribunal (Rs.)
1.	Loss of Income	Rs. 7,500/-
2.	Transportation	Rs. 1,000/-
3.	Nourishment	Rs. 1,000/-
4.	Medical Expenses	Rs. 2,000/-
5.	Pain and Sufferings	Rs.20,000/-
6.	Disability	Rs.10,000/-
	Total	Rs.41,500/-

Challenging the same, the appellant/Insurance Company has preferred this appeal.

6. Heard the learned counsel appearing for the appellant/ Insurance Company.

7. The learned counsel appearing for the appellant / Insurance Company submitted that the Tribunal erred in holding that the appellant is liable to pay the compensation, when the driver of the vehicle was not holding any licence on the date of accident. The learned counsel further submitted that the Tribunal failed to order pay and recovery to the appellant.

8. A perusal of the award of the Tribunal would go to show that the First Information Report was registered only against the rider of the two-wheeler and the rider of the two-wheeler

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admitted the accident and paid the fine amount also. It is also to be noted that no evidence was adduced by the appellant herein to prove their case. In such view of the matter, the Tribunal has drawn adverse inference and accepted the documents produced by the claimant and ultimately fastened the liability on the appellant, who was the insurer of the two wheeler.

9. With regard to quantum, the Tribunal has analyzed the injuries sustained by the claimant and the treatment taken by him for the same in various hospitals through the documents produced and determined the compensation in each and every heads as stated supra, which are fair and just and the same cannot be said to be excessive or exorbitant. Further, the grounds raised in this appeal are baseless. Hence, this Court finds no reason to interfere with the award of the Tribunal and the appeal has to be dismissed.

10. In the result, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed.

11.The appellant/Insurance Company, in the above appeal, is directed to deposit the compensation amount, as awarded by the Claims 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. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the injured/claimant, through RTGS, within one week thereafter. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gbi/srk
To
1. The Sub-Judge,
   Motor Accidents Claims Tribunal, Coimbatore.

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

+1cc to M/s.M.B.Gopalan, Advocate, S.R.No.56594

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