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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3070 of 2008
and M.P.No.1 of 2008

K.Sudeshkumar

... Appellant/Respondent

Vs

Minor T.Anju
rep.by her next friend and
father G.Thangam

... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.06.2006 made in MCOP No.952 of 2004 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court No.2), Dharmapuri District.

For Appellant : Mr.U.Karunakaran

For Respondent : Mr.P.M.Duraiswamy

JUDGMENT

This appeal is preferred by the appellant against the award of a sum of Rs.1,21,300/- towards compensation to the respondent, due to the injuries sustained by her in a motor vehicle accident.

2.The case in brief, is as follows:

On 24.03.2004 at about 10.00 hours, the respondent was walking along with her father on the extreme side of the mud portion of the Krishnagiri - Kuppam Road. When they reached near Mel Theru Mariamman Temple, the Bajaj Caliber motorcycle bearing Reg.No.TN-29-U-7750, belonging to the appellant came from Maharajakadai towards Krishnagiri, ie., back side of the respondent, in a rash and negligent manner and dashed against her. Due to the said impact, the respondent fell down and sustained grievous injuries all over the body. A claim petition was filed on behalf of the respondent, by her father. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,21,300/- with



interest at the rate of 7.5% per annum from the date of petition.

3. Challenging the same, the appellant has filed the present Civil Miscellaneous Appeal.

4. The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the rider of the motorcycle was rash and negligent in driving the motorcycle and was responsible for the accident. He also submitted that the quantum of compensation awarded by the Tribunal, is excessive and exorbitant.

5. The learned counsel for the respondent has submitted that the Tribunal has rightly considered the materials and evidence and has awarded the just and fair compensation and hence the same does not require any interference in the hands of this Court.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. The occurrence has not been disputed on the side of the appellant. But it has been submitted on behalf of the appellant before the Tribunal that since the injured crossed the road suddenly, the motorcycle dashed against her and the accident had occurred. But it is seen that Ex.P1-First Information Report, has been filed only against the appellant, who has been examined as R.W.1. During the cross examination, R.W.1 admitted before the Tribunal that during the period of accident, there was no insurance coverage for the vehicle. Further, it has not been proved on the side of the appellant that there was contributory negligence on the part of the respondent. In these circumstances, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the motorcycle, which factual finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.50,000/- towards pain and suffering, considering the injuries suffered by the respondent, relying upon Ex.P2-Accident Register, Ex.P3-Wound Certificate, Ex.P7-Photographs and negatives and Ex.P12-X-ray. The Tribunal has also awarded a sum of Rs.25,000/- towards partial permanent disability on account of the injuries suffered and Rs.30,000/- towards loss of comfort during the entire life time and the related expenses. The Tribunal has also awarded a sum of Rs.6,800/- towards medical bills, based on Ex.P5-Medical Bills, Rs.4,500/- towards transport expenses and Rs.5,000/- towards extra nourishment. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are



confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant is directed to deposit the compensation 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, the respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
Chief Judicial Magistrate No2,
Dharmapuri District.

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

+1cc to Mr.P.M.Duraiswamy, Advocate SR.No.61180

C.M.A.No.3070 of 2008
and M.P.No.1 of 2008

BP(CO)
GMY(18/08/2021)