

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 05.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1073 of 2010
and M.P.No.1 of 2010

The Divisional Manager
New India Assurance Company Ltd,
Vellore.

...Appellant/2nd Respondent

Versus

1. Elumalai

...1st Respondent/Petitioner

2.Chandramohan

..2nd Respondent/ 1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree passed by the Motor Accidents Claims Tribunal Cheyyar, Tiruvannamalai District made in MACTOP No. 47 of 2003 dated 10.02.2009.

For Appellant :Mr.S. Jayasankar

For Respondent - 1 :Mr.K. G. Senthil Kumar

For Respondent - 2 : Ex-parte

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal, in MACTOP No. 47 of 2003 dated 10.02.2009, the New India Assurance Company Ltd, has preferred this Civil Miscellaneous Appeal.

2. The accident occurred on 25.02.2002 when the first respondent herein was riding his bi-cycle in Mangal Road near Kanchipuram, the lorry of the second respondent, bearing Regn.No.TN-07-V-0253 came in a rash and negligent manner and hit the bi-cycle of the first respondent, thereby, he sustained grievous injuries. The accident occurred only due to the rash and negligent act of the driver of the lorry. Hence, the first respondent has filed M.C.O.P.No.47 of 2003, before the Motor Accident Claims Tribunal, seeking compensation for a sum of Rs.5,00,000/-. The Claims Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.95,700/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the New India Assurance Company Ltd., has filed this appeal.

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

5. As far as the award of compensation is concerned, this Court is inclined the same need not be disturbed, as the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

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 need not be interfered with by this Court in this appeal filed by the New India Assurance Company Ltd., and hence the negligence on the part of the driver of the lorry belonging to the second respondent and the quantum of compensation assessed by the Tribunal, cannot be said to be improper.

7. In the result, this appeal is dismissed, confirming the Judgment of the claims Tribunal in M.C.O.P.No.47 of 2003, dated 10.02.2009. No costs. Consequently, connected miscellaneous petition is closed.

smn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Cheyyar,
Tiruvannamalai District.

2.The Subordinate Court,
Cheyyar.

Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104. (2 copies)

+1cc to Mr.S.Jayasankar, Advocate, SR.No.9671/19
+1cc to Mr.K.G.Senthil Kumar, Advocate, SR.No.9660

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Kak(17/07/2019)