

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1152 OF 2009

AND

M.P.NO.1 OF 2009

National Insurance Co.Ltd.,
Third Party Motor Claims Office,
No.751 Anna Salai,
Chennai-600 002.Appellant/2nd Respondent

Vs

1.Murali
2.Venkatasubba Reddy ...Respondents/Claimant/
1st Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 15.07.2008 passed in M.A.C.T.O.P.No.122 of 2005, on the file of Motor Accident Claims Tribunal, Ponneri.

For Appellant : Mr.S.Vadivel

For R1 : Mr.A.E.Ravi Chandran

J U D G M E N T

This appeal is preferred by the Insurance Company as against the award of a sum of Rs.1,73,350/- towards compensation to the first respondent / claimant due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 30.09.2004, at about 7.00 a.m., the first respondent was riding his motorcycle bearing Registration No.TN-23-C-6899 from Thandalam to Periyapalayam Bazaar Road. At that time, a lorry bearing Registration No.AP-21-V-7993 came in a rash and negligent manner from the opposite direction and dashed against the 1st respondent. Due to the said impact, the first respondent/claimant sustained grievous injuries. Stating so, he filed a claim petition claiming compensation of Rs.4,00,000/-. On consideration of the materials and evidence available on

record, the Tribunal has awarded a total compensation of Rs.1,73,350/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant has disputed only the quantum of compensation awarded by the Tribunal. He submitted that the compensation awarded is excessive and exorbitant and hence, the same has to be reduced to some extent.

4.The learned counsel for the 1st respondent/claimant submitted that the Tribunal has properly considered the evidence and materials available on record and has arrived at the just compensation and hence, the same need not be interfered with by this Court.

5.Heard the learned counsel for the appellant as well as the learned counsel for the 1st respondent and perused the materials available on record carefully and meticulously.

6.There is no dispute with regard to the findings of the Tribunal on negligence and liability on the appellant insurance company.

7.As regards the quantum of compensation, the first respondent/ claimant himself examined as P.W.1, who deposed in his evidence that in the accident, he sustained fracture and grievous injuries; he took treatment for 5 days as inpatient at Sundaram Medical Foundation Hospital, Coimbatore; he was aged about 31 years and was earning a sum of Rs.7,000/- per month by working as a Motor Mechanic. In the absence of any documentary proof as to the age and income, the Tribunal has taken the monthly income of the injured at Rs.3,000/-. P.W.2/Doctor has assessed that the first respondent/claimant sustained fracture in his right hand ring finger, dislocation of right shoulder and injury in his left eye lid and suffered 65% permanent disability, but the Tribunal has taken only at 60% and awarded a sum of Rs.90,000/- at the rate of Rs.1,500/- per percentage. That apart, the Tribunal has awarded Rs.3,000/- towards loss of income, Rs.38,350/- towards medical expenses, Rs.2,000/- towards transportation, Rs.3,000/- towards extra nourishment, Rs.2,000/- towards loss of materials and Rs.35,000/- towards pain and suffering. This Court is of the view that the compensation awarded under the above heads, are just and very reasonable and the same cannot be treated as excessive and exorbitant and hence, the same need not be interfered.

8.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No Costs. The

appellant-Insurance Company is directed to deposit the entire compensation amount, with interest 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 award amount to the savings bank accounts of the first respondent / claimant through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gbi/srk/rk

To

1. The Judge,
Motor Accident Claims Tribunal,
Ponneri.

Copy To

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

+1cc to Mr.S.Vadivel, Advocate, S.R.No.63570

+1cc to Mr.A.E.Ravi Chandran, Advocate, S.R.No.64383

C.M.A.No.1152 of 2009

SSI(CO)
CS/27/01/2020

सत्यमेव जयते

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