

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3279 of 2008

and

M.P.No.1 of 2008

The National Insurance Co.Ltd.,
No.638, Nattar Colony, Attur,
Salem District.

... Appellant/2nd Respondent

Vs

1.Gopalrasu

...1st Respondent/Claimant

2.Sekar -Exparte

...2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.10.2005 made in MCOP No.50 of 2004 on the file of the Motor Accidents Claims Tribunal, District Judge, Perambalur.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.S.Lakshmana Samy for R2

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.1,04,150/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 15.07.2003, at about 3.00 p.m., the first respondent was standing along with his relatives in the Bazaar Bus Stop at Thathaiyangarpettai, Musiri Taluk, Trichy District. At that time, the tractor belonging to the second respondent and insured with the appellant Insurance Company, bearing Reg.No.TN-48-A-3034, came from West to East direction in a rash and negligent manner and dashed against the right side of the first respondent and the left wheel of the tractor ran over the right thigh and hip of the first respondent. Due to the said impact, the first respondent sustained grievous injuries. The first respondent

filed a claim petition before the Tribunal claiming a sum of Rs.3,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,04,150/- with interest at the rate of 7.5% per annum from the date of petition.

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

4.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in holding that the driver of the tractor belonging to the second respondent and insured with the appellant Insurance Company, had caused the accident. He also submitted that the interest rate fixed by the Tribunal at 7.5% per annum from the date of petition, is high.

5.This Court has also heard the submissions made by the learned counsel for the second respondent and perused the materials available on record carefully and meticulously.

6.The first respondent-claimant was examined as P.W.1. He deposed before the Tribunal that when he was standing along with his relatives in the Bazaar Bus Stop at Thathaiyangarpettai, Musiri Taluk, Trichy District, the tractor came in a rash and negligent manner and dashed against his hip and due to the same, his hip bone got fractured; that the bone in the right leg was also fractured. R.W.1-Insurance Official, deposed before the Tribunal that the tractor in question was not involved in any accident and only an unknown lorry dashed against the claimant and thus a false case has been foisted against the tractor owner. Even though it has been put forth by the Insurance Company before the Tribunal that the tractor in question was not involved in the accident, the tractor driver was not at all examined to prove the averments put forth on the side of the Insurance Company. Considering the materials and evidence, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the tractor belonging to the second respondent. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

7.With regard to compensation, the Tribunal has awarded a sum of Rs.42,145.75 towards medical expenses based upon Ex.P3-Medical Bills, Rs.10,000/- towards medical related expenses, Rs.37,000/- towards disability relying upon Ex.P15-Disability Certificate and Rs.15,000/- towards pain and suffering, thus awarding a total compensation of Rs.1,04,145.75, rounded off to Rs.1,04,150/-. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest, as ordered by the Tribunal, less 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 being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

KM

To

1.The District Judge,
The Motor Accidents Claims Tribunal
Perambalur.

Copy To : The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.S.Arunkumar, Advocate SR.No.71492

C.M.A.No.3279 of 2008
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SV (CO)
GMY (12/06/2020)

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