

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 05.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1334 of 2010
and M.P.No.1 of 2010

The Branch Manager,
Cholamandalam MS General Insurance Co. Ltd.,
Race Course Road, Coimbatore.

... Appellant/2nd Respondent

Versus

1. N. Palanisamy

2. S. Kandasamy

... Respondents/Petitioner/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.504 of 2006 dated 07.05.2009, on the file of the Motor Accidents Claims Tribunal, Additional District Court & Fast Track Court No.V, Coimbatore at Tiruppur.

For Appellant :Mr.N. Vijay Raghavan

For Respondent - 1 :No Appearance

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 MCOP No.504 of 2006 dated 07.05.2009, the Insurance Company has preferred this Civil Miscellaneous Appeal.

2. The accident occurred on 12.04.2006 when the first respondent was travelling in a van bearing Registration No.TN-40-B-1234, the driver drove it rashly and negligently near Velliampalayam N.R.Rice Mill and the van capsized, causing injuries to the first respondent. The second respondent is the owner of the van. The accident occurred only due to the rash and negligent act of the driver of the vehicle. Hence, the first respondent herein has filed M.C.O.P.No.504 of 2006, 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.1,95,140/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the Insurance Company 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 Insurance Company and hence the negligence on the part of the driver of the van 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 and Decree of the claims Tribunal in M.C.O.P.No.504 of 2006, dated 07.05.2009. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

smn

To.

1.The Additional District Court and
Fast Track Court No.V,
Motor Accidents claims Tribunal,
Coimbatore at Tiruppur.

2. The Record Keeper,
VR Section, High Court,
Madras.

+1cc to Mr.M.B.Gopalan, Advocate, S.R.No. 10572

C.M.A. No.1334 of 2010
and M.P.No.2 of 2010

AK (CO)
GN(29/04/2019)