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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1427 of 2009
& M.P.No.1 of 2009

The United India Insurance Co. Ltd.,
Third Party Claims Office,
38, Anna Salai,
Chennai-600 002.

... Appellant/II Respondent

..VS..

1. Mr. G. Nagaraj

...1st Respondent/Claimant

2. Mr.M. Munusamy
(R2 Set exparte before Tribunal)

...2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 20.04.2005 made in M.A.C.T.O.P.No. 868 of 2003 on the file of Motor Accidents Claims Tribunal (Sub Court), Tiruvallur.

For Appellant : Mr. R. Ravi Chandran

For Respondents : R1 & R2 Not Ready in Notice

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the quantum of compensation awarded by the Claims Tribunal.

2.In an accident that took place on 16.10.2002 at about 06.30am at Padirudu Village on the Puttur - Tirupathi road, the first respondent herein sustained grievous injuries due to the negligent act on the part of the driver of the lorry bearing Regn.No.AP21 D 2359 insured with the appellant insurance company. Hence, he filed a petition for compensation for a sum of Rs.3,00,000/- before the Tribunal. As against the said claim, the Tribunal has awarded a sum of Rs.2,46,000/- with interest at the rate of 9% per annum from the date of petition, as total compensation. Challenging the same, the Insurance Company has filed the present appeal.

3.The learned counsel for the appellant has not disputed the manner in which the accident had taken place. However, he submitted that the percentage of disability fixed is huge and



not in consonance with the injuries suffered by the injured. In all, he submitted that the compensation awarded by the Tribunal under various heads are excessive and exorbitant.

4. Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

5. Though this appeal was admitted way back in the year 2009, the appellant Insurance Company has not taken proper steps to serve notice to the respondents even at this length of time. However, due to paucity of time, this appeal is taken up for final disposal on merits.

6. Since the learned counsel for the appellant has not disputed the manner in which the accident had taken place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the lorry, does not require any interference in the hands of this Court.

7. The Tribunal, based upon the facts, materials, evidence and also based upon the dictum laid down in the decision of the Supreme Court has calculated the loss of earning power at Rs.1,25,000/-. The Tribunal has also taken note of the percentage of disability at 35% and has awarded compensation towards Medical Expenses, Extra Nourishment, transport expenses, permanent disability and pain and suffering at Rs.36,000/-, Rs.2,000/-, Rs.3,000/-, Rs.55,000/- and Rs.25,000/- respectively.

8. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles of law and hence, the same need not be interfered.

9. In such view of the matter, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant / Insurance Company is directed to deposit the compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, 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 is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar



To

1. The Motor Accident Claims Tribunal,
Sub Ordinate Judge, Tiruvallur.

2. The Section Officer, V.R. Section,
Madras High Court, Chennai 104.

+1cc to Mr.R. Ravi Chandran, Advocate SR.No.67920

C.M.A.No.1427 of 2009
& MP No.1 of 2009

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