

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 12.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1488 of 2010
and M.P.No.1 of 2010

National Insurance Co. Ltd.,
No.1754/556, Manojappa Street,
Thanjavur. ... Appellant/2nd Respondent

Versus

1. Ravi kumar ... 1st Respondent/Petitioner
2. Valarmathi
3. Siju Mathew
4. United India Insurance Co. Ltd.,
Municipal Shopping Complex,
Kacherithzham,
Muvattupuzha,
Ernakulam District,
Kerala State. ... 2 to 4 Respondents/1,3 & 4 Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.666 of 2005 dated 08.08.2007, on the file of the Motor Accidents Claims Tribunal /Additional District and Sessions Judge, Fast Track Court No.IV, Coimbatore at Tirupur.

For Appellant : Mr.S.Vadivel

For Respondents : Ma.P.Thangavel (for R1)
Mrs.R.Sreevidya (for R4)

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.666 of 2005 dated 08.08.2007, the appellant / Insurance Company preferred this Civil Miscellaneous Appeal.

2. The claimant has filed a claim petition contending that on 10.07.2005 at about 3.00 hours, when he was driving the lorry bearing Registration No.KL 7H 3744 at the left extremity of the

N.H.47 road near Kaniyur check post, the lorry bearing registration No.HR 47 1101 belongs to second respondent came in a rash and negligent manner and dashed against the first respondent lorry which resulted in the accident. The first respondent / claimant sustained grievous injuries. The vehicle bearing Registration No.KL 7H 3744 which belongs to third respondent is insured with fourth respondent and the Vehicle bearing Registration No.HR 47 1101 which belongs to second respondent is insured with the appellant insurance company. The claimant made a claim of Rs.6,00,000/- which was restricted to Rs.5,00,000/- as compensation for the injuries sustained by him in the accident.

3.The Tribunal, after analysing the oral and documentary evidence placed before it, has rendered a finding that the accident had occurred only due to the rash and negligent driving of the driver of the lorry belongs to the appellant. Therefore, the Tribunal computed the compensation payable to the claimant under various heads and awarded a sum of Rs.2,49,000/- with interest at the rate of 7.5% per annum as compensation to the claimant from the date of petition to till the date of payment.

4. Challenging the award of compensation as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

5. Heard Mr.S.Vadivel, learned counsel for the appellant, Mr.Ma.P.Thangavel, learned counsel for R1 as well as Mrs.R.Sreevidya, learned counsel for R4 and perused the materials available on record.

6. The appellant originally made his Claim for Rs.6,00,000/- but he restricted to Rs.5,00,000/- as compensation for the injuries sustained by him in the said accident. Considering the oral and documentary evidence adduced by both the parties, the Tribunal has passed the award amount with following heads:

a) Compensation for Permanent Disability (Rs.3000X12X25/100X18)	:	Rs.1,62,000/-
b) Pain and sufferings	:	Rs. 10,000/-
c) Transport	:	Rs. 1,000/-
d) Extra Nourishment	:	Rs. 2,000/-
e) Loss of income during Treatment Period:	Rs.	3,000/-
f) Medical Expenditure	:	Rs. 71,000/-
Total	:	Rs.2,49,000/-

7. Considering the age, occupation and nature of injury sustained by the claimant through medical evidence produced by the claimant, the Tribunal has passed the proper award amount with correct heads which is just and reasonable compensation

amount. Therefore, this Court need not inclined to interfere with the award passed by the Tribunal. Accordingly, this present appeal is liable to be dismissed.

8. In the result,

a) This Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal in M.C.O.P.No.666 of 2005 dated 08.08.2007, on the file of the Motor Accidents Claims Tribunal / Additional District and Sessions Judge, Fast Track Court No.IV, Coimbatore at Tirupur.

b) The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest at 7.5% per annum, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of copy of this Judgment.

c) On such deposit, the first respondent/claimant is permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn, on filing appropriate application before the Tribunal.

Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vum
To

The Motor Accidents Claims Tribunal/
The Additional District and Sessions Judge,
Fast Track Court No.IV,
Coimbatore at Tirupur.

+1cc to Mr.S.Vadivel, Advocate SR.No.12145

+1cc to Mr.MA.P.Thangavel, Advocate SR.No.13672

C.M.A. No.1488 of 2010
and M.P.No.1 of 2010

SJ(CO)
GMY(27/04/2019)