

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.17 of 2009  
and  
M.P.Nos.1 and 2 of 2009

The Oriental Insurance Co.Ltd.,  
No.8, 3rd Floor,  
Esplanade Branch,  
Chennai 108 .. Appellant/R2 in Tribunal below

Vs.

1.Venkatesan  
2.M.Selvaraj .. Respondents/Petitioner and  
R1 in Tribunal below

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.01.2007 made in M.C.O.P.No.20 of 2002 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.M.Rajasekar

For Respondents : Mr.K.Varadha Kamaraj  
for R1

R2 : Not Ready Notice

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the award dated 19.01.2007 passed by the Motor Accident claims Tribunal VI Small Causes Court, Chennai (for brevity 'the Tribunal') in M.C.O.P.No.20 of 2002, wherein the Tribunal has awarded a sum of Rs.78,000/- to the claimant/first respondent herein towards compensation for the injuries sustained by him in a motor vehicle accident.

2.The case of the claimant before the Tribunal is that on 19.08.2001 at about 08.30 a.m., the first respondent was riding his bicycle on the 1<sup>st</sup> Main Road, Anna Nagar, Chennai. When he

was nearing Chinthamani, the motorcycle bearing registration No.TN-01-S-1964 came in a rash and negligent manner and hit the first respondent, as a result of which the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal claiming a sum of Rs.1,50,000/- as compensation. The Tribunal, based on the witnesses and documents adduced, has awarded a sum of Rs.78,000/- with interest at the rate of 7.5% per annum from the date of petition, as compensation. Aggrieved over the compensation and the negligence fixed on the rider of the two wheeler, this appeal is preferred by the Insurance company.

3.The learned counsel for the appellant/Insurance Company has contended that the Tribunal has erred in relying upon the evidence of P.W.2 and R.W.1 to assess the alleged involvement of the motorcycle in the accident. He further submitted that the Tribunal had failed to take note of the fact that the injured has not produced the Motor vehicle Inspector's Report. He further submitted that in any event the sum of Rs.78,000/- awarded to the claimant is on the higher side.

4.Per contra, the learned counsel for the first respondent / claimant has submitted that the award passed by the Tribunal is perfectly valid, since the same was based on the materials available on record and hence, the same does not require any interference by this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.A perusal of the award passed by the Claims Tribunal would go to show that the Tribunal has taken note of the fact that it is the case of hit and run and hence there occurred a delay to identify the real motorcycle which was involved in the accident. Further the depositions of P.W.2-Head Constable and R.W.1-Sub-Inspector of Police clearly show that the police formed a Special Team to trace the two-wheeler and its rider. A further perusal of the evidence of P.W.1 as well as R.W.1 would reveal that the rider of the vehicle, which was insured with the appellant herein, was at fault. This Court finds absolutely no reason whatsoever to interfere with such findings on negligence by the Tribunal, since the same are based on the materials available on record. Hence the same are confirmed as such.

7.As far as the quantum of compensation is concerned, the Tribunal has quantified the total compensation at Rs.78,000/- with interest at the rate of 7.5% per annum from the date of petition. It is evident from the records that the accident was of the year 2001, the petition was filed in the year 2002, the award was passed in the year 2007 and the present appeal was

filed in the year 2009 and it is being disposed of in the year 2019. Considering the paucity of time, escalation in the value of prices and reduction in the value of money between 2007 and 2019, the award passed cannot be said to be on the higher side. Further, the Tribunal has arrived the quantum of compensation under the pecuniary and non-pecuniary heads as per II Schedule of the Motor Vehicles Act. Hence, interference on quantum is uncalled for.

8.In the result, confirming the award of the Claims Tribunal, this Civil Miscellaneous Appeal, filed by the Insurance Company, is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

9.The appellant / Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, 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 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

To

The VI Judge,  
Motor Accident Claims Tribunal,  
VI Small Causes Court, Chennai.

Copy to

The Section Officer,  
VR Section, High Court,  
Madras.

+1cc to Mr.M.Rajasekhar, Advocate Sr.63124  
+1cc to Mr.K.Varadhakamaraj, Advocate Sr.63311

C.M.A.No.17 of 2009

ev[co]  
srg 04/06/2020