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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3895 of 2008
and M.P.No.1 of 2008

United India Insurance Co.Ltd.,
39, Greams Road, Silinghi Building,
Chennai-600 006. ... Appellant/2nd respondent

Vs

1.K.N.Pradeep Raj ... 1st Respondent/ Petitioner
2.G.A.M.Gunasekaran ... Respondent/ 1st Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.12.2007 made in MCOP No.2653 of 2003 on the file of the Additional District Judge FTC-II, Chennai cum Motor Accidents Claims Tribunal.

For Appellant : Mr.S.K.Krishnamurthy

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,88,000/- towards compensation to the first respondent, due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On 30.10.2002, at about 06.45 a.m., the first respondent was travelling in the motorcycle bearing Reg.No.TN-02-7790, as a pillion rider, from Ambattur O.T. to go to Dunlop Factory. When the two-wheeler was nearing T.I.Cycle Factory, an Ambassador Car bearing Reg.No.TN-20-V-7800, driven by its driver in a rash and negligent manner, at high speed, came from the opposite direction and dashed against the motorcycle. Due to the said impact, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,88,000/- 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 has not raised any ground as to the manner in which the accident took place. But he disputed the quantum of compensation awarded by the Tribunal, stating that the same is excessive and exorbitant.

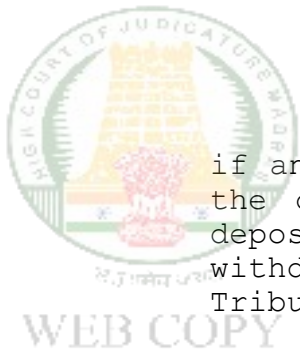
5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.While granting conditional stay, this Court ordered notice of admission way back in December 2008. It is seen that no steps have been taken on the side of the appellant Insurance Company to serve papers to the other side, even at this length of time.

7.Since the negligence aspect is not questioned, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Ambassador car, does not require any interference by this Court.

8.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.75,000/- towards 45% disability. The said sum has been awarded considering the evidence of P.W.2-Doctor, Ex.P7-Disability Certificate and Ex.P8-X-ray. P.W.2-Doctor issued Ex.P7-Disability Certificate stating that the injured sustained 45% disability. The Tribunal has also awarded a sum of Rs.75,000/- towards pain and suffering, taking note of the fact that the injured was unable to fold his right leg above 80 degree; that there was a decrease of 10% in the movement of right leg heel and he was experiencing lot of pains. The Tribunal has also awarded a sum of Rs.2,000/- each towards transport expenses and extra nourishment, Rs.1,000/- towards damages to clothes and motorcycle, Rs.10,000/- towards medical expenses, Rs.20,000/- towards loss of earning power and Rs.3,000/- towards loss of income during the treatment period. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

9.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 as ordered by the Tribunal with interest, after deducting 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, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM
To

- 1.The Additional District Judge FTC-II, Chennai cum
Motor Accidents Claims Tribunal.
- 2.The Section Officer,
VR Section, Madras High Court.

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A.SK(14/10/2019)