IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1802 of 2009
and
M.P.No.1 of 2009

United India Insurance Company Limited
by its Branch Manager
No.235, Gandhi Road, Arni. ... Appellant

Vs.

1.Devi
2.V.Manimaran ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.09.2005 made in M.C.O.P.No.81 of 2001 on the file of the Motor Accident Claims Tribunal, Arni.

For Appellant : Mr.M.J.Vijaya Raghavan

For Respondents : Mr.P.Satheesh Kumar for R1
R2 - No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.81 of 2001 dated 22.09.2005 wherein the Tribunal has awarded a sum of Rs. 31,800/- to the claimant/first respondent herein.

2.The case in brief, is as follows:

On 02.04.2001, the first respondent and others were travelling in a van bearing Registration No. TN25 Y 7756 belonging to the second respondent herein and insured with the appellant Insurance Company. At about 03.30p.m., when the said van was proceeding from S.V.Nagaram village to Mattadhari road, near Marinandal village bus stop, due to the rash and negligent driving of its driver, it went to the road side and got capsized, as a result of which the first respondent and others, who were traveling in the van sustained multiple injuries all over the body. They were given first aid treatment and later, referred to the hospital for better treatment. Contending that the accident had occurred due to the reckless driving of the van driver, the first respondent filed a claim petition before the Tribunal claiming a sum of Rs.1,20,000/- as compensation.

3.The Tribunal, considering the materials and evidence available on record, has fastened the liability on the appellant Insurance Company and arrived at the quantum of Rs.31,800/- to be payable with interest at the rate of 9% per annum. Aggrieved over the compensation, this appeal is preferred by the appellant / Insurance company.

4.The learned counsel for the appellant/Insurance Company at the outset submitted that the amounts awarded by the Tribunal under various heads have not matched with the settled principles of law and hence the same needs substantial reduction. He further submitted that when there is a specific plea raised by the appellant in respect of excess person carried in the said van than the permissible limit, the Tribunal has erred in fastening the liability on the appellant herein.

5. Per contra, the learned counsel appearing for the first respondent / claimant has submitted that the Tribunal has discussed in detail the evidence and documents adduced by the parties and fastened the liability on the appellant herein and arrived at the quantum, which cannot be brushed aside easily.

6. Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials available on record. Despite the service of notice, there is no representation on behalf of the second respondent.

7. The analysis of the award of the Tribunal would establish the fact that after framing issues, while dealing with the negligence aspect, the Tribunal has rightly taken note of Exs.P1 to P3 - FIR, Wound Certificate and Certificate given by the private Doctor coupled with the evidence of RW.1-Official of the Insurance Company and also Ex.R1 / Insurance Policy, Ex.R2 / Inspection Report and Ex.R3 / Accident Register Copies. The Tribunal has also taken note of the evidence of RW.2-Investigating Officer and held that during the cross examination of RW.3, it came to light that there is no cogency and relevancy in the evidence of RW.3. Ultimately, the Tribunal has fastened the liability on the appellant herein. This Court of the view that the evidence on record have been analysed by the Tribunal in a proper prospective. Hence, the findings of the Tribunal on negligence need no interference.

8. As far as the quantum of compensation, the Tribunal has awarded Rs.500/-, Rs.1,000/-, Rs.2,000/-, Rs.300/-, Rs.20,000/- and Rs.3,000/- towards Medical expenses, Transportation, Extra nourishment, X-ray charges, Loss of future earnings and Pain and sufferings, respectively. The yardstick adopted by the Tribunal in arriving at such quantum is based on settled principles of law and second schedule of the Motor Vehicles Act, which in the opinion of this Court is nothing but just. Hence, interference on quantum is uncalled for.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. The appellant / Insurance Company is directed to 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 is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk/vkr
To

1.The Motor Accidents Claims Tribunal,
Arni.

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

+1cc to M/s.M.J.Vijayaraghavan, Advocate Sr.70753
+1cc ot M/s.P.Satheeshkumar, Advocate Sr.70679

C.M.A.No.1802 of 2009
and
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srg 28/08/2020