

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2078 of 2009

Royal Sundaram Alliance Insurance Co., Ltd.,
No. 132, Brigade Road,
Bangalore -25

... Appellant/4th Respondent

Versus

1.V. Ramaiah ... 1st Respondent/Petitioner

2.Ashok Leyland Limited,
Unit 2, Plot No. 67/A,
Sipcot Industrial Complex,
Hosur.

3. United India Insurance Co Ltd.,
Dare House Extension,
3rd Floor, 17, Rajaji Salai,
Chennai - 1.

4. Govindappa. ... Respondents 2 to 4/Respondents 1 to 3

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.144 of 2005 dated 02.04.2008, on the file of the Motor Accident Claims Tribunal, Subordinate Court, Hosur.

For Appellant : Mr.N. VijayaRaghavan

For First Respondent : Mr.G.M.Anantha Kumar

For Respondent 3 : S.Arunkumar

JUDGMENT

This Civil Miscellaneous Petition has been filed by the appellant against the Judgment and Decree in M.C.O.P.No.144 of 2005, dated 02.04.2008 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Hosur.

2.The facts of the case are as follows:

On 13.01.2004 at about 9.45 p.m, when the first respondent herein was proceeding in the Ashok Leyland Chasis bearing Reg.No.TN-29 1099 from Hosur to Vijayawada, a tractor bearing Reg.No. KA-08-T1773 came in the opposite direction and dashed against the vehicle of the appellant. In the result the driver of the Ashok Leyland Chasis fell down and there by sustained grievous injuries and was admitted in Government Hospital, Malur for treatment.

3.Hence, the first respondent herein, filed M.C.O.P.No.144 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Judge, Hosur seeking compensation for a sum of Rs.5,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.2,81,000/- payable with interest at the rate of 7.5% per annum.

4. Aggrieved over the same, the appellant/Insurance Company has come forward with the present appeal.

5. The learned counsel for the appellant/Insurance Company contend that the awarded passed by the Tribunal is not a reasonable one. Hence, he prays to dismiss this petition.

6. Per Contra, the learned counsel for the first respondent contend that the award passed by the Tribunal is a well considered order and prays to confirm the award passed by the Tribunal.

7. Heard Both sides.

8.From the perusal of the materials available on record, it is seen that the Tribunal, had examined 2 witnesses and marked 16 exhibits on the side of the appellant. On the side of the 4th respondent 1 witness and 3 exhibits were marked.

9.The Tribunal, on the basis of oral evidence of PW-1, assessed that, at the time of accident he was aged about 60 years and he was driver by profession hence, approximately fixed Rs.60,000/- as monthly income and arrived Rs.50,000/- under the head loss of income.

10. Considering Ex.15/Disability certificate produced by the Doctor, the Tribunal Assessed Rs. 90,000 for the head Partial Disability.

10.1. The Tribunal after verifying Exs.10,11 and 12 fixed Rs.48,000/- under the head Medical Expenses.

10.2. Taking note of the relevant documents pertaining to amenities, Transport and other documents the Tribunal fixed Rs.20,000/- for loss of amenities and for loss of Estate Rs.70,000/- was awarded and for transport Expenses Rs. 3,000/- was awarded. Finally the Tribunal awarded Rs.2,81,000/- as compensation to the first respondent herein.

11. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

12. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal has applied its mind properly and granted the award with the correct head which is well considered order.

13. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.144 of 2005, dated 02.04.2008, on the file of Sub Judge, Hosur is confirmed.

(b) the appellant/Insurance is directed to deposit amount as awarded by the Tribunal, less the amount if any already deposited, with the interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this order.

(c) On such deposit the respondent is permitted to withdraw the amount, by way of filing proper application before the Tribunal.

(d) There will be no order as to costs.

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Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

smn

To

1.The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Hosur.

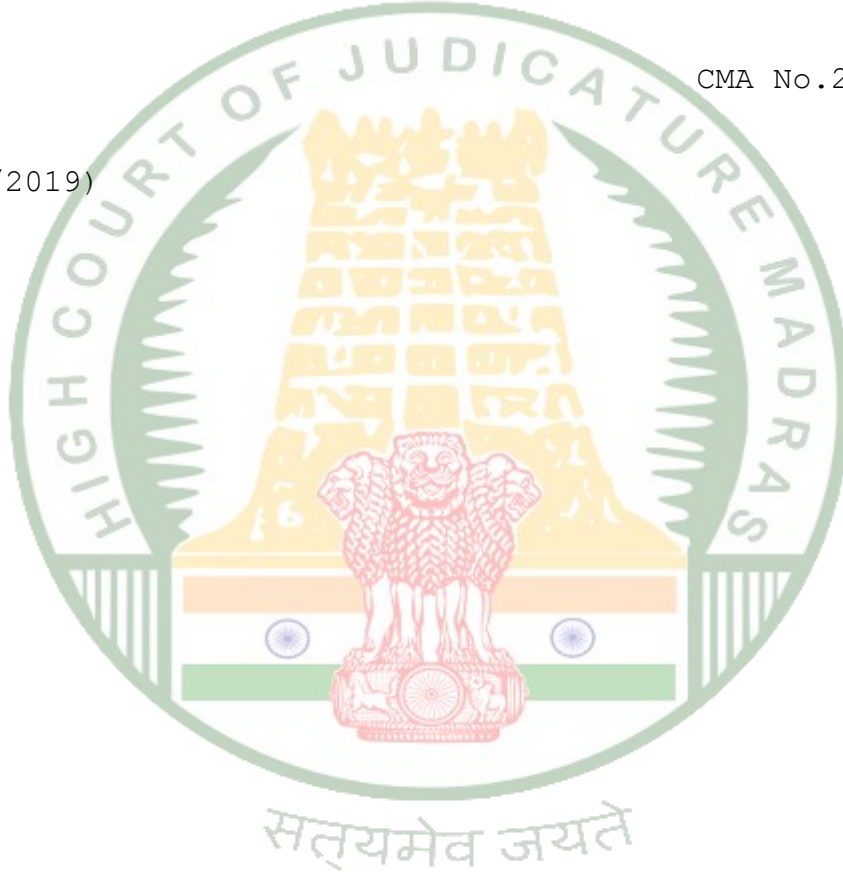
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.N. VijayaRaghavan, Advocate SR.No.28072

+1cc to Mr.G.M.Anantha Kumar, Advocate SR.No.27442

CMA No.2078 of 2009

VSN II (CO)
GMY (28/05/2019)



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