

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2370 of 2010

and

M.P.No.1 of 2010

The National Insurance Co. Ltd.,
Thiruppur represented by its
Branch Manager, Having his
office at Thiruppur ... Appellant

Versus

1.Arumugam

2.R. Thangharamu ... Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 04.05.2010 and made in M.A.C.T.O.P.No.17 of 2009 on the file of the Motor Accident Claims Tribunal, Nagapattinam (Chief Judicial Magistrate).

For Appellant :Mr.S. Vadivel

For Respondent-1 :Mr.Henrietha Chinnathambi

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated 04.05.2010 and made in M.A.C.T.O.P.No.17 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagapattinam.

2. On 01.05.2007 at about 9:45 a.m when the first respondent herein along with his brother-in-law Palanivelu were walking in a road near Karuppambulam Appakkanni bridge, a Hero Honda super splendor Motor cycle bearing Registration No.TN-39-AK-8659, belonging to the 2nd respondent herein, came in the opposite direction and dashed the first respondent herein and thereby he sustained injuries. The accident occurred due to the rash and negligent act of the rider of the Motor Cycle. Hence, the first respondent herein filed M.C.O.P.No.17 of 2009 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate,

Nagapattinam, seeking compensation for a sum of Rs.6,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.43,700/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of the learned counsel for the appellant and Mr.Henrietha Chinnathambi for the 1st respondent. There is no representation for 2nd respondent. Perused the materials available on record.

5. As far as the award of compensation is concerned, the amount awarded by the Tribunal is not a reasonable one.

6. 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.

7. Though the Tribunal has considered that the driver of the accident vehicle is not having valid licence, no pay and recovery was ordered. Therefore, this appeal is partly allowed on the ground that when the accident was occurred the driver is not having valid licence and therefore the liability should be fixed on the owner of the vehicle and he is liable to pay. Hence, the appellant/Insurance is directed to pay the award amount and recover the same from the owner of the vehicle.

7. In the result, सत्यमेव जयते

(a) this appeal is partly allowed and the appellant/Insurance Company is directed to pay the entire award amount and recover the same from the owner of the vehicle/first respondent herein. All other observations made by the Tribunal shall remain intact.

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

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

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

(f) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

smn

To.

- 1) The Motor Accident Claims Tribunal
Chief Judicial Magistrate, Nagapattinam.
- 2) The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.S.Vadivel, Advocate, S.R.No.18388

C.M.A. No.2370 of 2010
C.M.P.No.1 of 2010

AD(CO)
SSM(24/06/2019).

सत्यमेव जयते

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