

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 11.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A. No.2401 of 2010
and M.P.No.1 of 2010

National Insurance Co. Ltd.,
12-A, Sengottai Vinvent Building Opposite,
Dindigul Post and District.

... Appellant/3rd Respondent

Versus

1. D.Veerakumar ... 1st Respondent/Petitioner
2. V.Sivashanmugham ... 2nd Respondent/1st Respondent
3. S.Rengaswamy ... 3rd Respondent/2nd Respondent

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.83 of 2004 dated 09.03.2010, on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Dharapuram, Erode District.

For Appellant : Mrs.N.B.Surekha

For Respondents: Mr.Ma.P.Thangavel (for R1)

JUDGMENT

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.83 of 2004 dated 09.03.2010, the appellant/Insurance Company preferred this Civil Miscellaneous Appeal.

2. On 12.10.2003 at about 8.00 p.m the first respondent was riding the moped bearing registration No TN 33 T 8116 with his brother . When they were proceeding towards east on the northern edge of the east west Muthur to Udaiam Main road near Selvanagar, the 2nd respondent drove his tractor bearing

Registration No. TN 47 E 7750 in a rash and negligent manner with high speed and dashed against the first respondent. Out of the said accident, the first respondent sustained grievous injuries all over the body. Hence, the first respondent has filed a petition in M.C.O.P.No.83 of 2004 before the Motor Accidents Claims Tribunal / Subordinate Court, Dharapuram, Erode District, claiming a sum of Rs.5,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.2,16,000/- payable with interest at the rate of 7.5% per annum from the date of petition to till the date of payment.

3. Challenging the amount ordered by the Tribunal as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

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

5. It is the case of injuries sustained by the victim in the accident. As far as the award of compensation is concerned, this Court is not inclined to disturb the same, as the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference.

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 filed by the appellant, and the quantum of compensation assessed by the Tribunal, cannot be said to be improper.

7. Since, the Tribunal while going into the evidence of both parties and the manner of injuries, had properly assessed and passed the award with correct heads which need not be interfered by this Court.

8. In the above circumstances, this Court need not inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

9. In the result,

a) This Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal in M.C.O.P.No.83 of 2004 dated 09.03.2010, on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Dharapuram, Erode District.

b) The appellant/Insurance company is directed to deposit the amount as determined by the Tribunal together with interest at 7.5% per annum, after adjusting amount, if any, already deposited within a period of eight weeks from the date of copy of this Judgement.

c) On such deposit, the first respondent/claimant is permitted to withdraw the said amount with accrued interest, less the amount if any, already withdrawn on filing appropriate application before the Tribunal.

Consequently connected Miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vum

To.

The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Dharapuram, Erode District.

+1cc to Mrs.N.B.Surekha, Advocate, S.R.No.11950

C.M.A.No.2401 of 2010
and M.P.No.1 of 2010

SSD(CO)
CS/11/06/2019

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