

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.239 of 2009

M/s.National Insurance Company Ltd.,
Second Floor, 169, Anna Salai,
Chennai-600 002.

... Appellant / 2nd Respondent

Vs

1. Gowri Shankar ... 1st Respondent / Petitioner

2. M/s.Blue Star Travels
47, Sathya Moorthy Street,
Thiruvallur District, Chennai. ...2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.10.2008 made in MACTOP No.324 of 2006 on the file of the Motor Accidents Claims Tribunal, Salem (Chief Judicial Magistrate Court, Salem).

For Appellant : Mr.S.Vadivel

For Respondents : Ms.V.Sasirekha for R1

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.4,69,920/- towards compensation to the first respondent, due to the injuries sustained by him in a motor vehicle accident. सत्यमेव जयते

2.The case in brief, is as follows:

On 02.04.2006, at about 22.45 hours, the first respondent was travelling in the Tata Sumo Car bearing Reg.No.TN-20-L-6526, belonging to the second respondent, from Krishnagiri towards Vaniampadi on the Vaniampadi NH Road. The driver of the car was driving the vehicle in a rash and negligent manner. When the car reached near Kanthikuppam, near Government Engineering College, the driver lost control of the vehicle and dashed behind the tractor bearing Reg.No.TN-27-U-4201 which was going in front of the car. 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.4,69,920/- with 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 Insurance Company has not disputed the finding of the Tribunal that the accident had occurred due to the rash and negligent driving of the driver of the Tata Sumo Car and hence the said finding of the Tribunal need not be interfered with by this Court. But however, he disputed the quantum of compensation awarded by the Tribunal stating that the same is excessive and exorbitant.

5.The learned counsel for the first respondent /claimant has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.Considering the fact that the claimant received an Appointment Order from a company as Trainee Customer Support Engineer awarding a sum of Rs.6,500/- as monthly salary and also the fact that he already worked in a company earning a sum of Rs.4,500/- per month and thereafter resigned from the said job and in the same company, he got an offer for Rs.6,500/- per month, the Tribunal determined the monthly income of the claimant as Rs.5,500/- and accordingly calculated the annual income at Rs.66,000/-, deducted 1/3rd of the amount towards personal expenses and arrived at the sum of Rs.44,000/-. Thereafter, the Tribunal adopted the multiplier of 17 and awarded a sum of Rs.4,11,400/- towards loss of income for 55% disability. Even though P.W.2-Doctor fixed the disability at 40% in respect of loss of speech and P.W.3-Doctor fixed the disability at 23% in respect of fracture of bone, the Tribunal reduced the same to 35% and 20% respectively, and accordingly fixed the total disability at 55% and awarded the above sum of Rs.4,11,400/-. The Tribunal has correctly assessed the income of the injured, adopted the correct multiplier, correctly assessed the percentage of disability and awarded the above sum of Rs.4,11,400/- to the injured, towards loss of income. The Tribunal has also awarded a sum of Rs.15,000/- towards pain and suffering, Rs.5,000/- towards transport expenses, Rs.5,000/- towards extra nourishment, Rs.5,000/- towards attender charges, Rs.13,520/- towards medical expenses based on Exs.P5, 17 and 20,

which is an actual expenditure and a further sum of Rs.15,000/- towards loss of income during the treatment period, thus awarding a total compensation of Rs.4,69,920/-. The amounts awarded by the Tribunal under the above heads are very reasonable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. 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(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
Salem (Chief Judicial Magistrate Court, Salem).
2. The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.S.Vadivel, Advocate, S.R.No.67415

C.M.A.No.239 of 2009

SPD(CO)
SSM(25/10/2019)

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