

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2584 of 2009 and

M.P.No.1 of 2009

National Insurance Co.Ltd.,  
Cuddalore, N.T

... Appellant/2<sup>nd</sup> Respondent

Versus

1. Kaliyan ...1<sup>st</sup> Respondent/Petitioner

2. Gunasekaran ... 2<sup>nd</sup> Respondents/1st Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree made in M.A.C.T.O.P. No. 1893 of 2004 on the file of the Motor Accidents Claims Tribunal ( II Additional Subordinate Judge) at Cuddalore dated 13.11.2006.

For Appellant :Mr.M.Krishnamoorthy

J U D G M E N T

This appeal has been filed against the Judgment and Decree made in M.A.C.T.O.P.No.1893 of 2004 on the file of the Motor Accidents Claims Tribunal ( II Additional Subordinate Judge) at Cuddalore dated 13.11.2006.

2. On 11.03.2004 at about 10.15 hours, while the first respondent herein/claimant was travelling as a Pillion rider in a bicycle along with his friend, viz., Kumar from Cuddalore to Thiruvanthipuram Main road, near Pathirikuppan Bus Stop, the motor cycle bearing Registration No. TN-31-E-1911, came in a rash and negligent manner from the opposite direction and dashed against the bicycle, due to which, the claimant sustained grievous injuries. Hence, he filed M.C.O.P.No.1893 of 2004, on the file of the Motor Accidents Claims Tribunal ( II Additional Subordinate Judge) at Cuddalore, seeking compensation for a sum of Rs.2,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.1,31,800/- 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 counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents, the same is yet to be completed for service.

5. 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.

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. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the ( II Additional Subordinate Judge) at Cuddalore, in M.C.O.P. No. 2584 of 2009 is hereby confirmed.

(b) the appellant/Insurance Company is directed to deposit amount as awarded 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 herein is permitted to withdraw the award 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(CS III)

//True Copy//

Sub Assistant Registrar

To.

The Motor Vehicles Accident Claims Tribunal  
and Additional District Judge FTC.No.2 Chennai.

Copy to

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

+1cc to Mr.M.Krishnamoorthy, Advocate Sr.14248

C.M.A. No.2584 of 2009  
M.P.No.1 of 2009

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srg 8/5/2019



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