

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2608 of 2009

United India Insurance Co. Ltd.,
146-N, Kumar Buildings,
Tiruchengodu,
Namakkal District.

... Appellant

Versus

1. Gunaraj

2. M/s.M.S.Mani Transports,
No.33, West Mniappankoil Street,
Tiruchengodu,
Namakkal District.

... Respondents

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.138 of 2007 dated 28.01.2009, on the file of the Motor Accidents Claims Tribunal /Sub Court, Sankari.

For Appellant :Mr.S.Arunkumar

For Respondents :Mr.C.Kulanthaivel (for R1)

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.138 of 2007 dated 28.01.2009, the appellant preferred this Civil Miscellaneous Appeal.

2. On 03.12.2006 at about 5.00 p.m the first respondent/injured was going to Lakshmi Saraswathi Mill at extreme left side of the Tiruchengode to Erode Main Road in Tiruchengode TK by a Motor cycle bearing Registration No.TN 34 5954, a bus bearing Registration No TN 34 D 2486 came in a rash and negligent manner and dashed against the first respondent motor cycle. Out of the said accident, the first respondent

sustained grievous injuries all over the body. Hence, the first respondent herein has filed a petition in M.C.O.P.No.138 of 2007 before the Motor Accidents Claims Tribunal /Sub Court, Sankari, 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.2,26,905/- payable with interest at the rate of 7.5% per annum.

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

4. Despite notice served to respondent, name also printed in the cause list, there is no representation on behalf of the respondent.

5. Heard the learned counsel appearing for the Appellant and perused the materials available on record.

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

7. 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.

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.138 of 2007 dated 28.01.2009, on the file of the Motor Accidents Claims Tribunal / Sub Court, Sankari.

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.

No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To.

The Motor Accidents Claims Tribunal/
The Subordinate Court,
Sankari.

copy to: The Section Officer,
VR Section, High Court, Madras.

+1 cc to Mr.C.Kulanthaivel, Advocate, S.R.No.13623

+1 cc to Mr.S.Arunkumar, Advocate, S.R.No.14766

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MP(CO)
SSM(11/06/2019)

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