

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2621 of 2009
and
M.P.No.1 of 2009

United India Insurance Co Ltd.,
The Branch Manager,
Branch Office,
K.B.S. Motors Buildings,
No.26, Katpadi Road,
Gandhi Road, Vellore -6.Appellant/2nd Respondent

Vs

1.Sivagami1st Respondent/Petitioner

2.C.A.G. Krishnamoorthy2nd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act
against the Judgment and decree dated 06.04.2009 made in MCOP
No.81 of 2006 on the file of the Motor Accident Claims Tribunal,
Additional Special Judge, Krishnagiri.

For Appellant : Mr.S.Arunkumar

JUDGMENT

This appeal has been preferred against the Judgment and
decree dated 06.04.2009 made in MCOP No.81 of 2006 on the file
of the Motor Accident Claims Tribunal, Additional Special Judge,
Krishnagiri.

2.The case in brief, is as follows:

On 19.02.2006 at about 14.00 hours, when the first
respondent herein was walking on the extreme left side of the
road in Uthangarai to Samalpatti road near Samalpatti Police
Station, the TVS Scooty Pep vehicle bearing Reg.No.TN23 AY 0434
belonging to the 2nd respondent herein and insured with the
appellant Insurance Company came from behind in a rash and
negligent manner and dashed against the first respondent, as a

result of which, the first respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal claiming a sum of Rs.1,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal has arrived at the total compensation of Rs.77,000/- with interest at the rate of 6% p.a., from the date of petition.

3. Challenging the same, the appellant has filed the present Civil Miscellaneous Appeal.

4. The learned counsel for the appellant has submitted that the Tribunal has erred in fastening the liability on the appellant Insurance Company, when the fact remained that the driver of the two-wheeler was not possessing the valid driving licence at the relevant point of time. It is also submitted that the compensation awarded by the Tribunal is excessive.

5. Though this appeal was admitted way back in the year 2009, the appellant has not taken proper steps to serve notice on the other side. However, due to paucity of time, this appeal is taken up for final disposal, on merits.

6. Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7. The second respondent herein is the owner of the vehicle. He failed to disclose who actually drove his two-wheeler at the time of accident. It is also seen that the claimant has mentioned the name of the driver as the owner of the vehicle. If really the owner had not driven the vehicle, the claimant ought to have mentioned the same in the claim petition and informed to the Court. It was not established by way of proper documents that the rider of the two wheeler was not in possession of valid driving licence. In these circumstances, the Tribunal has fixed the negligence on the part of the rider and accordingly fastened the liability on the appellant herein, which this Court is not inclined to interfere.

8. With regard to the quantum, the Doctor has examined the claimant and assessed the disability at 60%. Taking note of the same, the Tribunal has awarded a sum of Rs.60,000/- towards disability at the rate of Rs.1,000/- per percentage of disability. Considering the other relevant materials adduced, the Tribunal has awarded Rs.5,000/-, Rs.2,000/- and Rs.10,000/- as compensation under the heads Transport expenses, Attendant charges and pain and sufferings respectively. Thus, the total compensation was quantified at Rs.77,000/-. The findings

rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence and hence this Court is not inclined to interfere with the same.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount through RTGS to the Savings Bank Account of the claimant/first respondent within one week thereafter.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srk/smn

To

1.The Additional Special Judge, Krishnagiri.
The Motor Accidents Claims Tribunal

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

+1 cc to Mr.S.Arunkumar Advocate sr74155

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