

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3158 of 2009
and M.P.No.1 of 2009

M/s.New India Assurance Co.Ltd.,
45, II Line Beach,
Moore Street,
Chennai-600 001.

... Appellant/2nd Respondent

Vs

1.S.Amutha

...1st Respondent/
Petitioner

2.Rajkumar

(R2 set exparte in the Lower Court)....2nd Respondents/
1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.06.2009 made in OP No.1943 of 2004 on the file of the Motor Accidents Claims Tribunal, Chennai (in the III Small Causes Court) at Chennai.

For Appellant : Ms.R.Sreevidhya

For Respondents : Mr.A.N.Viswanatha Rao for R1
R2 : Exparte

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.2,42,000/- towards compensation to the first respondent, due to the injuries suffered by her, in a motor vehicle accident.

2.The case in brief, is as follows:

On 17.11.2003 at about 18.30 hours, the first respondent / claimant and others were travelling as passengers in U.K. Auto from West to East direction in the Pantheon Road Overbridge, Egmore, Chennai-8. At that time, an auto-rickshaw bearing Reg.No.TN-09-R-6169, belonging to the second respondent and insured with the appellant Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against them. Due to the same, the first respondent herein sustained grievous injuries. The first respondent filed a claim

petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,42,000/- with interest at the rate of 9.5% 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 has submitted that the compensation awarded by the Tribunal is excessive and exorbitant. He also submitted that the interest rate fixed by the Tribunal at 9.5% per annum from the date of petition, needs to be reduced, since it was not prevailing at that time.

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

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

7.Since the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the auto-rickshaw bearing Reg.No.TN-09-R-6169 has not been disputed by the appellant Insurance Company, the said finding does not require any interference by this Court.

8.The Tribunal has awarded a sum of Rs.30,000/- towards loss of earning, Rs.3,000/- each towards transport to hospital and extra nourishment, Rs.36,000/- towards medical expenses relying upon Ex.P2-Medical Bills, Rs.20,000/- each towards further operation, attender charges, mental agony and mental agony to husband and children. The Tribunal has also awarded a sum of Rs.40,000/- towards pain and suffering considering the severe pain and suffering at the time of sustaining injury and during treatment and Rs.50,000/- towards permanent disability, considering the disability assessed by the Doctor at 50% through Ex.P12. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court. But it is seen that the Tribunal has awarded interest at the rate of 9.5% per annum from the date of petition, when the fact remained that the interest rate prevailing at the relevant point of time was 7.5%. Therefore, the interest rate fixed by the

Tribunal is liable to be modified from 9.5% to 7.5% per annum from the date of petition. Hence, while confirming the quantum of compensation awarded by the Tribunal, the interest rate fixed by the Tribunal at 9.5% per annum from the date of petition, stands modified to 7.5% per annum from the date of petition.

9. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

10. The appellant Insurance Company is directed to deposit the compensation of Rs.2,42,000/- with interest at the rate of 7.5% per annum from the date of petition, less 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(CO)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal,
Chennai (in the III Small Causes Court) at Chennai.

copy to

The Section Officer,
VR Section, Madras High Court.

+1 cc to M/s.R.Sree vidhya Advocate sr72820

+2 cc to Mr.A.M.Viswanatha Rao Advocate sr71395

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aa20/02/2020