

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3321 and 3322 of 2009
and M.P.Nos.1 and 1 of 2009

Branch Manager,
National Insurance Co. Ltd.,
No.66, Perundurai Road,
Erode District. ... Appellant/3rd Respondent in both CMAs

Vs.

1.S.Perumal ... 1st respondent in CMA.3321 of 2009/Petitioner
P.Muthusamy ... 1st respondent in CMA.3322 of 2009/Petitioner

2.S.Sangameswaran

3.K.Sundarrajan

...Respondents 2 and 3 in both CMAs/Respondents 1 & 2

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Common Judgment and decree in M.C.O.P.Nos.34 and 45 of 2007 respectively dated 23.10.2007, on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.4, Bhavani.

For Appellant : Mr.N.Vijayaraghavan

For Respondent 1 : Mr.Ma.Pa.Thangavel

R2 & R3 : Exparte

C O M M O N J U D G M E N T

The case in brief, is as follows:

On 22.12.2003 at about 6.00 a.m., the first respondent in these appeals and their party members were travelling in a Maruthi Van bearing Registration No. TN 33 M 7230 from Chennai from Sankari to attend the AIADMK Party cadres meeting. The said Maruthi van was driven by the 2nd respondent herein, in a rash and negligent manner from North to South direction on the right side of the road. When the van reached near Kallakkurichi, Elavanasoor Kottai Main Road, Chemiyanmadevi, it hit against a tamarind tree on the right side of the road. Due to the impact,

the first respondent in C.M.A.No.3321 of 2009 sustained grievous injuries all over the body and his lower spinal cord got fractured and he also sustained swelling in the right ankle joint. The first respondent in C.M.A.No.3322 of 2009 sustained grievous injuries all over the body and his right leg was fractured. Both of them were taken to the Government Hospital, Ulunthurpettai and due to unsatisfactory treatment, they voluntarily discharged from the hospital and got admitted in the National Hospital, Erode for better treatment. Both of them filed separate claim petitions before the Tribunal for compensation for the injuries sustained. Considering the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.76,310/- with interest at the rate of 7.5% per annum from the date of petition in respect of the first respondent in C.M.A.No.3321 of 2009 and a total compensation of Rs.94,898/- with interest at the rate of 7.5% per annum from the date of petition in respect of the first respondent in C.M.A.No.3322 of 2009.

2.Challenging the same, the appellant Insurance Company has come up with these appeals.

3.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in awarding a disproportionate compensation without appreciating the pleadings and the nature of the claim. Further, the learned counsel submitted that the Tribunal has failed to note that the claimants have not established the negligence on the part of the driver of the Maruti Van by examining any eye witness or official witness and mere production of First Information Report is not sufficient to fasten the liability on the appellant.

4.The learned counsel for the first respondent in these appeals / claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant as well as the learned counsel for the first respondent in these appeals / claimants and perused the materials available on record carefully and meticulously.

6.Ex.P1-First Information Report has been filed against the Maruti van owner. Charge sheet has been filed based on the First Information Report. Considering the evidence adduced as well as the documents produced, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Maruti Van, which finding this Court is not inclined to interfere.

7. With regard to the quantum of compensation, in respect of the first respondent in C.M.A.No.3321 of 2009, the Tribunal has awarded a sum of Rs.24,000/- towards 24% permanent disability, Rs.30,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment, Rs.5,000/- towards attender charges, Rs.3,000/- towards transport expenses and Rs.4,310/- towards medical expenses. In respect of the first respondent in C.M.A.No.3322 of 2009, the Tribunal has awarded a sum of Rs.24,000/- towards 24% permanent disability, Rs.30,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment, Rs.5,000/- towards attender charges, Rs.1,000/- towards transport expenses and Rs.22,898/- towards medical expenses.

8. The Tribunal has relied upon the exhibits, evidence of witnesses, medical bills, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimants. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed. The appellant / Insurance Company is directed to deposit the award amounts with interest and costs, as ordered by the Tribunal, after deducting the amounts if any 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 first respondent in these appeals / claimants are permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

srk/rna

To

1. The Motor Accidents Claims Tribunal,
Additional District Court, Fast Track Court No.4,
Bhavani.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.Ma.Pa.Thangavel, Advocate SR.No.71095

+2ccs to Mr.N.Vijayaraghavan, Advocate SR.No.71577 & 71578

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LN (CO)
GMY (06/08/2020)



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