

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.444 of 2009
and M.P.No.1 of 2009

The New India Assurance Company Ltd.,
Amman Complex
34, Erode Salai,
Perunthurai

... Appellant

Versus

1. S.Prakash
2. R.Palanichamy
3. J.Bharathkumar
4. The United India Insurance Company Ltd.
No.1170, Muthaiah Complex,
Mettur Salai,
Erode.

(Since R2 and R4 were set exparte
before the Tribunal notice may be
dispensed with)

... 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.395 of 2003 dated 31.01.2005, on
the file of the Motor Accidents Claims Tribunal / Additional
District Court cum Fast Track Court No.1, Erode.

For Appellant : Mr.G.Muniratnam

For Respondents: R2 and R4 set Exparte
No appearance for R3
R1 - left

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.395 of
2003 dated 31.01.2005, the appellant / Insurance Company
preferred this Civil Miscellaneous Appeal.

2. The facts of the case are as follows:

The first respondent got injured due to the accident took place on 02.04.2001. On 02.04.2001 while the first respondent/claimant was travelling in the motor cycle Hero Honda bearing registration No.TN 33 D 7764 as a pillion rider and driven by the second respondent in the leftern side along with Uthukuli to Tiruppur road near Tolgate from west to east a motor cycle bearing registration No.TN 33 J 9507 coming on the opposite direction in a rash and negligent manner and dashed against the first respondent. Out of the said accident, the first respondent sustained grievous injuries all over his body. Therefore, the first respondent filed a petition in M.C.O.P.No.395 of 2003 before the Motor Accidents Claims Tribunal / Additional District Court cum Fast Track Court No.1, Erode, claiming a sum of Rs.2,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.24,500/- payable with interest at the rate of 9% 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. Since R2 and R4 set exparte before the Tribunal, notice to R2 and R4 are dispensed with. Despite notice served to other respondents, no appearance for R3 and R1 left. Therefore, heard Mr.G.Muniratnam, learned counsel for appellant and perused the materials available on record.

5.Considering the occupation of the claimant, nature of the injury sustained by him and the medical evidence produced by the him, I find that the compensation amount of Rs.24,500/- awarded by the Tribunal is just and reasonable.

6. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

7. In the result,

a) This Civil Miscellaneous Appeal is dismissed on merits by confirming the award passed by the Tribunal in M.C.O.P.No.395 of 2003 dated 31.01.2005, on the file of the Motor Accidents Claims Tribunal / Additional District Court cum Fast Track Court No.1, Erode.

b) The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest at 9% 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 respondent/claimant is permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn on filing appropriate application before the Tribunal.

Consequently, connected Miscellaneous Petition is closed.
No costs.

vum

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Additional District Court
cum Fast Track Court No.1,
Motor Accidents Claims Tribunal,
Erode.

C.M.A. No.444 of 2009
and M.P.No.1 of 2009

Kak(08/05/2019)



WEB COPY