

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.01.2019

CORAM:

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1368 of 2015
and M.P.No.1 of 2015

Divisional Manager
Oriental Insurance Company Limited,
Pondicherry. ...Appellant / Respondent

Vs

1.Maniraja ...1st Respondent / Petitioner

2.V.K.Enterprises
Transport Contractors
Mayiladuthurai. ...2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.01.2015 made in M.C.O.P.No.225 of 2009 on the file of Motor Accidents Claims Tribunal, Sub Court, Chidambaram.

For Appellant : Mr.S.Manohar

For R1 : Mr.A.Murugan

For R2 : Exparte before the Tribunal

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 27.01.2015 made in M.C.O.P.No.225 of 2009 on the file of Motor Accidents Claims Tribunal, Sub Court, Chidambaram.

2.The appellant-Insurance Company is 2nd respondent in M.C.O.P.No.225 of 2009 on the file of Motor Accidents Claims Tribunal, Sub Court, Chidambaram. The 1st respondent filed the above claim petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 16.04.2008. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the 2nd respondent and directed the

appellant-Insurance Company being the insurer of the said lorry to pay a sum of Rs.10,06,000/- as compensation to the 1st respondent. Against the said award 27.01.2015 made in M.C.O.P.No.225 of 2009, the appellant-Insurance Company has come out with the present appeal challenging the quantum of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal has erred in fixing the notional income of the 1st respondent at Rs.10,000/- per month, while he was a student. The Tribunal has erred in fixing disability at 40% and awarded compensation by applying multiplier method and compensation awarded under different heads are excessive and prayed for reducing the quantum of compensation awarded by the Tribunal.

4.Per Contra, the learned counsel appearing for the 1st respondent contended that the 1st respondent examined himself as PW1 and examined Doctor as PW4 and proved the nature of injuries and disability suffered by him. The Tribunal has erred in reducing percentage of disability from 82% to 40% and awarded compensation and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 1st respondent and perused the material available on record.

6.From the materials available on record, it is seen that the 1st respondent was a B.Sc. Bio Chemistry student. The Tribunal considering the nature of course studied by the 1st respondent, fixed the notional income of the 1st respondent at Rs.10,000/- per month, which is reasonable. PW4-Doctor in his evidence has deposed the details of the injuries and disability suffered by 1st respondent and also certified that the 1st respondent has suffered 82% disability. The Tribunal considering the evidence of PW4 -Doctor and age of the 1st respondent, reduced the disability to 40% from 82% and awarded compensation by applying multiplier method, which is in order. The amounts awarded by the Tribunal under different heads are not excessive and the Tribunal has given valid reason for awarding compensation. There is no error in the said findings of the Tribunal warranting interference by this Court.

7.In the result, the Civil Miscellaneous Appeal is dismissed and award of the Tribunal is confirmed. The appellant-Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent-claimant is permitted to withdraw the entire amount

awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

rst/kj

To

The Motor Accidents Claims Tribunal,
Subordinate Judge, Chidambaram.

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

C.M.A.No.1368 of 2015
and M.P.No.1 of 2015

RGN (CO)
SSM (25/07/2019)



WEB COPY