

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2109 of 2015

and

M.P.No.1 of 2015

M/s.United India Insurance Co. Ltd.,
24, Whites Road,
Chennai-14.

... Appellant

vs.

1.R.Manickam

2.M.Babu

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 28.03.2013 made in M.C.O.P.No.1183 of 2007 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For appellant : Mrs.I.Malar

For R1 & R2 : No appearance

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,20,801/- towards compensation to the first respondent/claimant due to the injuries sustained by him in a motor vehicle accident.

2. The case in brief is as follows:

On the fateful day, i.e., on 08.11.1995, at about 03.30 hours, the first respondent/claimant was driving the Lorry bearing Regn.No.CAA 4199 from Salem to Erode. When the vehicle was plying in Salem - Komarapalayam Road, opposite to JKK Sampooranima Hospital, it hit the Tanker Lorry bearing Regn.No.TN 04 5999 belonging to the second respondent and insured with the appellant Insurance Company, which was parked in the middle of the road without any signal or indication. Due to the said

impact, the first respondent/claimant sustained grievous injuries all over body. Hence, he filed a claim petition, claiming compensation of Rs.3,00,000/-. The Tribunal, after considering the oral and documentary evidence adduced by the parties, awarded a total compensation of Rs.1,20,801/- with interest at 7.5% per annum from the date of petition. Aggrieved over the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant Insurance Company has not disputed the quantum of compensation awarded by the Tribunal. However, he submitted that considering the fact that the claimant drove the vehicle bearing Regn.No.CAA 4199 in a rash and negligent manner and dashed against the parked vehicle bearing Regn.No.TN04 5999 insured with the appellant insurance company, the Tribunal ought to have concluded that the claimant was responsible for the accident and ought to have exonerated the appellant insurance company from paying compensation.

4.Heard the learned Counsel for the appellant and perused the materials available on record carefully and meticulously.

5.Despite the service of notice and the names of the respondents having been printed in the cause list, there is no representation on their behalf.

6.There is no grievance as regards the factum of accident and the involvement of the vehicle bearing Regn.No.TN04 5999 insured with the appellant insurance company.

7.It was putforth on the side of the appellant insurance company that the claimant drove the vehicle bearing Regn.No.CAA 4199 in a rash and negligent manner and dashed against the parked vehicle bearing Regn.No.TN04 5999 and thereby he was responsible for the accident and hence, the appellant insurance company is not liable to pay any compensation to the claimant. Ex.P1 First Information Report was registered only against the claimant. The Tribunal has also observed that the claimant/driver of the lorry bearing Regn.No.CAA 4199 dashed on the backside of the parked lorry bearing Regn.No.TN04 5999, due to which, he sustained injuries. However, the Tribunal has fastened the liability on the appellant insurance company, who is the insurer of the parked vehicle, on the ground that the claimant is the third party and the claim petition was filed under Section 163(A) of the Motor Vehicles Act. As per the claim petition, the annual income of the claimant is Rs.38,400/- i.e., below Rs.40,000/-. This Court is of the view that the finding so rendered by the Tribunal on liability is perfectly valid in law and the same does not warrant any interference, as it is settled that for the claim under Section 163A, there is no need to plead

or prove negligence on the part of the driver of the vehicle or opposite vehicle against which the claim is maintained, for the compensation to award as per Schedule II of the Motor Vehicles Act.

8.Since the quantum of compensation awarded by the Tribunal is not disputed by the appellant insurance company, the same is confirmed as such.

9.In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.The appellant/Insurance Company is directed to deposit the entire award amount with interest and costs, after deducting the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit, the Tribunal shall transfer the amount lying in the deposit to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate,
Krishnagiri.

Copy to

The Section Officer, V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.Ravichandran, Advocate Sr.92008

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