

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2127 of 2015
and M.P.No.1 of 2015

The Manager,
United India Insurance Co.Ltd.,
No.73/C, MTH Road
Ambattur,
Chennai-600 053.

... Appellant

Vs

1.Kannan

2.V.Senthilvadivel

... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.04.2014 made in MCOP No.136 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani at Tiruvallur District.

For Appellant : Mr.J.Chandran

For Respondents: Ms.A.V.Bharathi for R2

JUDGMENT

This appeal arises out of the accident which occurred on 04.02.2010, between the auto-rickshaw bearing Reg.No.TN-20-M-9733 and the APE pick-up van bearing Reg.No.TN-20-L-5019, in the Nandhi River Bridge.

2.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the APE van. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

3.The learned counsel for the first respondent / claimant has submitted that the Tribunal has correctly considered the materials and evidence available on record and has awarded

the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

4.Heard the learned counsel for the appellant and the learned counsel for the second respondent.

5.This Court has already passed a common judgment in C.M.A.Nos. 2128 and 2129 of 2015 on 16.10.2019, in respect of the appeals filed by the appellant Insurance Company against two other claimants with regard to the same accident. In that judgment, this Court has already confirmed the finding rendered by the Tribunal on negligence, that the accident had occurred only due to the rash and negligent driving of the driver of the APE van. In view of the same, this Court confirms the finding of the Tribunal in respect of negligence in the present case as well.

6.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.3,69,000/- towards 70% continuing disability, Rs.10,000/- each towards transportation expenses and extra nourishment and Rs.30,000/- towards pain and suffering. Thus, the Tribunal has awarded a total compensation of Rs.4,19,000/- with interest at the rate of 7.5% per annum from the date of petition. Considering the injuries suffered by the claimant, this Court is of the considered view that the multiplier method adopted by the Tribunal is not correct and it would be appropriate to award a sum of Rs.2,000/- per percentage of disability. If that is done, the amount awarded by the Tribunal towards 70% disability works out to Rs.1,40,000/-. Accordingly, the amount awarded by the Tribunal towards continuing disability stands modified to Rs.1,40,000/-. Further, while agreeing with the amounts awarded by the Tribunal towards transportation expenses, extra nourishment and pain and suffering, this Court feels it appropriate to award a sum of Rs.20,000/- towards medical expenses, Rs.10,000/- towards attendant charges and Rs.20,000/- towards loss of amenities, as it is seen that the injured has sustained injuries in the thigh and due to the same, his activity has been restricted and he cannot do the work as before.

7.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Continuing disability	1,40,000/-
Medical expenses	20,000/-
Transportation expenses	10,000/-
Extra nourishment	10,000/-
Attendant charges	10,000/-
Pain and suffering	30,000/-

Loss of amenities	20,000/-

TOTAL...	2,40,000/-
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Thus, the total compensation awarded by the Tribunal stands reduced to Rs.2,40,000/- with interest at the rate of 7.5% per annum from the date of petition.

8.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the modified amount of compensation, as ordered above, after deducting 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 being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar

KM

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruttani at Tiruvallur District.

2.The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.J.Chandran, Advocate, S.R.No.87863
+1cc to M/s.A.V.Bharathi, Advocate, S.R.No.87706

C.M.A.Nos.2127 of 2015
and
M.P.No.1 of 2015

CNR(CO)
CB(14/08/2020)