

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2178 of 2015
and M.P.No.1 of 2015

National Insurance Co. Ltd.,
Hero Honda Verticle 101 106,
BMC House N1 Connaught Place,
New Delhi - 110 001. .. Appellant / 2nd Respondent

Vs.

1.Chellamuthu ..1st Respondent/Petitioner

2.Anandhan ..2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.11.2014 made in M.C.O.P.No.429 of 2013 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Namakkal.

For Appellant : Mr.S.Arun Kumar

For RR1 : Mr.MA.P.Thangavel

For R2 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 26.11.2014 made in M.C.O.P.No.429 of 2013 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Namakkal.

2.The appellant is 2nd respondent in M.C.O.P.No.429 of 2013, on the file of the Motor Accidents Claims Tribunal, Additional District Court, Namakkal. The 1st respondent filed the said claim petition, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 01.01.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver-cum-owner of the two

wheeler, the second respondent herein and directed the appellant-Insurance Company to pay a sum of Rs.6,38,200/- as compensation to the first respondent/claimant.

4.Challenging the said award dated 26.11.2014 made in M.C.O.P.No.429 of 2013 granting compensation to the first respondent/claimant, the appellant-Insurance Company has come out with the present appeal.

5.Though the appellant has raised in grounds of appeal with regard to liability, at the time of arguments, the learned counsel appearing for the appellant restricted his arguments with regard to quantum of compensation and contended that P.W.2/Doctor has certified that the 1st respondent suffered 45% disability. He has not annexed any working sheet or guidelines for disability. P.W.2/Doctor has certified 45% disability by unscientific assessment marked as Ex.P8 and the Tribunal erred in accepting the same. The amounts awarded by the Tribunal under different heads are excessive and contrary to the judgment of the Hon'ble Apex Court and this Court and prayed for setting aside the award passed by the Tribunal.

6.Per contra, the learned counsel appearing for the 1st respondent submitted that the 1st respondent examined P.W.2/Doctor and proved the disability suffered by him. The Tribunal considering the evidence of P.W.2/Doctor and nature of injuries, awarded compensation under different heads which are not excessive and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant-Insurance Company as well as the first respondent and perused all the materials available on record.

8.The 1st respondent has examined P.W.2/Doctor, who deposed about the nature of injuries and also treatment taken by the 1st respondent and certified that the 1st respondent suffered 45% of disability. The appellant has not let in any evidence to disprove the same. In view of the same, the compensation awarded by the Tribunal under different heads are just compensation and are not excessive. There is no reason warranting interference by this Court.

9.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.6,38,200/- awarded by the Tribunal as compensation to the 1st respondent/claimant is hereby confirmed. The learned counsel appearing for the appellant-Insurance Company submitted that the appellant-Insurance Company has already deposited a sum of Rs.5,00,000/- to the credit of M.C.O.P.No.429 of 2013. The balance amount is directed to be deposited within a period of eight weeks from the date of

receipt of a copy of this judgment to the credit of M.C.O.P.No.429 of 2013. On such deposit, the first respondent is permitted to withdraw the award amount along with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gbi/krk

To

1. The Additional District Judge,
The Motor Accidents Claims Tribunal,
Namakkal.

copy to:

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

+1 cc to Mr.MA.P.Thangavel, Advocate, S.R.No.6176

+1 cc to Mr.S.Arun Kumar, Advocate, S.R.No.6197

C.M.A.No.2178 of 2015
and M.P.No.1 of 2015

SSP(CO)
SSM(31/05/2019)

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