

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.A.No.2187 of 2015

and

M.P.No.1 of 2015

M/s.Reliance General Insurance Co.Ltd.,
Rep.by its Branch Manager,
1st floor, Gee Jay Arcade,
No.141/71, T.V.Swamy Road West,
R.S.Puram, Coimbatore. Appellant/2nd Respondent

Vs.

1. M.Kumar1st Respondent/Petitioner
2. S.Saidharan

Prayer : Civil Miscellaneous Appeal filed under Section 173 (1) of the Motor Vehicles Act, 1988, against the judgment and decree made in MCOP No.497 of 2008 dated 11.12.2009 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Tirupur.

For Appellant : Mr.M.B.Raghavan

For Respondents : Mr.M.Lokesh

for Mapa.Thangavel for R1
R2 set exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree dated 11.12.2009 made in M.C.O.P.No.497 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Tiruppur.

2. The appellant/Insurance Company is the 2nd respondent in M.C.O.P.No.497 of 2008 on the file of the Motor Accidents Claims Tribunal Principal Subordinate Court, Tiruppur. The 1st respondent herein filed the said claim petition, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.11.2007.

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

wheeler bearing Registration No.TN 41 P 1531 and directed the 2nd respondent herein as well as the appellant to pay the compensation to the 1st respondent herein jointly and severally.

4. Aggrieved by the said award granted by the Tribunal, the appellant-Insurance Company has come out with the present appeal.

5. Brief facts of the case is as follows:-

On 08.11.2007 at about 11:00 hrs the petitioner was riding his two wheeler bearing Registration No.TN-41-R-4815 from North to South at the extreme left side of the road in the Aaliyur to Angalakurichi, N.M.Sungam Road, near Kona Pipe Medu. At that time a vehicle bearing Registration No.TN-41-P-1531 came in a rash and negligent manner hit against the petitioner and the petitioner sustained grievous injuries in his right thigh fracture, right hand, right side forehead, left hand, right toe, back side chest and injuries all over the body. Thereafter the petitioner was admitted as inpatient in G.H.Pollachi and CMCH, Coimbatore hospital and underwent treatment for one month and still the petitioner is undergoing treatment. Hence he claimed a sum of Rs.5,00,000/- as compensation.

6. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the two wheeler bearing Registration No.TN41-P-1531 and the respondents 1 and 2 are jointly and severally are liable to pay compensation to the petitioner. The Tribunal awarded a sum of Rs.4,27,600/- as compensation to the petitioner and directed the respondents 1 and 2 to pay the same.

7. Before the Tribunal, on behalf of the claimant, three witnesses were examined and eighteen exhibits were marked. No witness or exhibits were marked on the side of the Insurance Company.

8. The learned counsel for the Insurance Company/appellant contended that the tribunal has fallen into error in adopting the multiplier method in fixing compensation and that the compensation awarded by the tribunal under various heads is on the higher side and further submitted that the accident had occurred owing to the negligence of the injured and hence contributory negligence ought to have been attributed to the injured.

9. The tribunal, on the basis of Ex.P1 [First Information Report] registered against the driver of the two wheeler bearing Registration No. TN 41 P 1531 found that it was due to the rash and negligent driving of the two wheeler that was the cause of the accident. Further, considering Ex.P2 [Discharge summary],

Ex.P3 [Lab Report], Ex.P4 [Treatment Reports], Ex.P5 [Medical Bills], Ex.P6 [Discharge summary], Ex.P7 [X-ray report] and Ex.P8 [Medical Bills], the tribunal has awarded a sum of Rs.4,27,600/- as compensation. I am therefore of the view that the amount awarded by the Tribunal is just and proper and the same is based on the oral and documentary evidence. Hence this Court finds no reason to interfere with the award under challenge.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the sum of Rs.4,27,600/- awarded by the Tribunal as compensation is confirmed. The learned counsel for the appellant/Insurance Company submitted that as per the direction of this Court, the entire award amount has been deposited by the appellant to the credit of M.C.O.P.No.497 of 2008. The Tribunal if not already transferred shall transfer the same to the claimant's bank account through RTGS within a period of one week from the date of receipt of a copy of this order and the first respondent herein/petitioner is permitted to withdraw the on time award amount. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. No costs. Consequently connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

dpq

To

1. The Principal Subordinate Court, Tirupur.
Motor Accidents Claims Tribunal.

Copy to

The Section Officer
VR Section, High Court, Madras 104.

+1 CC to Mr.Ma.Pa. Thangavel, Advocate sr 47420.

+1 CC to Mr.M.B.Raghavan, Advocate sr 46499

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VGII(CO)
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