

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2336 of 2015

United India Insurance Company Ltd.,
Branch Office,
B.R.Sundaram Street,
Opp to Vasam Eye Hospital,
Dharmapuri Town,
Dharmapuri District.

... Appellant/Respondent No.2

Vs.

1.Kolandai ... Respondent No.1/Petitioner

2.N.Sakthivel ... Respondent No.2/Respondnet No.1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.10.2014 made in MCOP.No.749 of 2014 on the file of Motor Accidents Claims Tribunal (Special Sub Judge), Dharmapuri.

For Appellant : Mr.D.Bhaskaran

For R1 : Mr.S.Sathiya Seelan

R2 Set Exparte

J U D G M E N T

This appeal is preferred by the Insurance Company against the award of a sum of Rs.2,77,600/- 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 06.08.2012, at about 07.30 p.m, the first respondent/claimant and his relative were walking in Papparappatti - Old Dharmapuri Main Road. At that time, a bike bearing registration No.TN 29 AF 7230 belonging to the second respondent and insured with the appellant insurance company, came in a rash and negligent manner and hit the

pedestrians from behind. As a result of the same, the first respondent sustained grievous injuries in all over the body. He filed a claim petition claiming a sum of Rs.5,00,000/- as compensation. The Tribunal, after examining the oral and documentary evidence adduced by the parties, awarded a total compensation of Rs.2,77,600/- with interest at the rate of 7.5% per annum from the date of petition. Aggrieved over the same, the appellant Insurance company has filed the present appeal.

3.The learned counsel for the appellant Insurance Company has disputed only the quantum of compensation. According to him, the compensation awarded by the Tribunal is excessive, exorbitant and disproportionate to the injuries sustained by the first respondent/claimant and hence, the same has to be reduced substantially.

4.Per contra, the learned counsel for the first respondent/claimant submitted that the Tribunal, after examining the materials and evidence available on record, has awarded the just compensation, which warrants no interference in the hands of this Court.

5.Heard the learned counsel for the appellant Insurance Company and the learned counsel for the first respondent/claimant and perused the materials available on record.

6.The learned counsel for the appellant Insurance Company has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent riding of the rider of two wheeler and hence, the said finding of the Tribunal need not be interfered with by this Court.

7.As regards the quantum of compensation awarded by the Tribunal, the first respondent/claimant himself examined as P.W.1, who deposed that he was aged 50 years and was earning a sum of Rs.7,000/- per month, due to the impact of the accident, he sustained fracture in the bones of right forearm, right upper limbs and right thigh, besides receiving multiple injuries in all over the body. The doctor, who treated the claimant, was examined as P.W.2 and according to him, the appellant/claimant sustained 35% permanent disability. However, the Tribunal has taken the permanent disability of the appellant/claimant only at 30%, which is fair and just and the same is hereby confirmed. Ex.P10 is the permanent disability certificate and Ex.P11 is X Ray. After considering those materials and evidence, the Tribunal has taken the monthly income of the first respondent/claimant at Rs.4,000/- and adopted the multiplier of 13 and quantified the compensation under the head "permanent disability" at Rs.1,87,200/- (48,000/- x 13 x 30/100). The

Tribunal has rightly determined the income, adopted the multiplier and assessed the compensation under this head and hence, the same does not require any interference by this Court.

8. That apart, the Tribunal has awarded Rs.45,000/- towards medical expenses, as per Ex.P8-medical bills, which is the actual medical expenses incurred by the first respondent/claimant for his treatment and hence, the same is hereby confirmed. Further, the Tribunal has awarded Rs.15,000/- towards pain and suffering, Rs.8,000/- towards loss of income during treatment period, Rs.12,000/- towards transportation and Rs.10,000/- towards extra nourishment and damage to clothes, which are fair, just and reasonable and the same cannot be said to be excessive and exorbitant at any stretch of imagination, considering the nature of the injuries sustained by the first respondent/claimant and in the given facts and circumstances of the case and hence, the same need not be interfered with by this Court.

9. In fine, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Insurance Company is directed to deposit the entire compensation amount with interest and costs, less the amount already deposited, if any, 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 same to the savings bank account of the first respondent/claimant through RTGS within a period of one week thereafter.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Special Sub Judge, Dharmapuri.

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

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No. 95766

C.M.A.No.2336 of 2015

SSV(CO)
GN(10/12/2020)