

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.10.2019
CORAM:
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
C.M.A.No.2113 of 2013

K.Shanthi

.. Appellant

Vs.

1.N.Sundar

2.Royal Sundaram Alliance Insurance Co.Ltd.,
Sundaram Towers, No.46, Whites Road,
Royapettah, Chennai 600 014.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree made in M.C.O.P.No.380 of 2010, dated 28.11.2012 on the file of II Judge, Small causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.A. Shanmuga raj

For Respondent-2: Mr.N. Vijayaraghavan

JUDGMENT

The appellant is the claimant in M.C.O.P.No.380 of 2010 on the file of the Motor Accident Claims Tribunal, II Judge, Small causes Court, Chennai. She filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award compensation of Rs.1,00,000/- for the injuries sustained by her in a road accident on 01.02.2009.

2.The case of the claimant in nutshell is as follows:

On 01.02.2009, she was a pillion rider in a scooter bearing Reg.No.TN-04-T-4838 along Spurtank Road, and at about 8.30 p.m, a speeding Car bearing Registration No: TN-04-AB-8164 hit her, as a result of which, she sustained injuries all over her body. According to the claimant, the rash and negligent driving of the driver of the car was the cause for the accident, and that since

the said car is insured with the Royal Sundaram Alliance Insurance Co.Ltd, the owner and the insurer are jointly and severally liable to pay compensation.

3.The first respondent (owner of the offending vehicle) remained absent before the Tribunal and therefore he was set exparte. The Tribunal after analyzing the evidence on record awarded a sum of Rs.49,500/- with interest at 7.5% p.a as compensation to the claimant. Not being satisfied with the quantum of compensation awarded by the tribunal, the claimant has preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4.Mr.A. Shanmuga Raj, the learned counsel appearing for the appellant contended that though Dr.N.Sai Chandran (PW2) assessed the partial permanent disability as 25%, the Tribunal has reduced the disability to 15% without any reason and awarded a very meagre amount of Rs.49,500/- as compensation to the claimant. Therefore, he prayed for enhancement of compensation.

5.No appearance for the first respondent.

6.Per contra, learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after analysing the oral and documentary evidence adduced on both sides, awarded a just compensation to the claimant and the same need not be disturbed at this stage.

7.A perusal of copy the Accident Register (Ex.P.3) and the Hospital Records(ExP.4) of Dr.Mehta's Hospital Private Limited shows that the appellant/claimant was treated as an outpatient on 01.02.2009 and she sustained left elbow ligament avulsion and contusion in her left shoulders. Considering the nature of injuries sustained by the claimant, the Tribunal awarded just compensation. Therefore, I do not see any reason to interfere with the findings of the Tribunal.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The orders passed by the Tribunal is upheld.

(iii) The 2nd respondent / Insurance Company is directed to deposit the award amount i.e.,Rs.49,500/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.380 of 2010 on the file of II Judge, Small causes Court, (Motor Accident Claims Tribunal), Chennai, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same after following due process of law.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

smn

To
The II Judge,
The Motor Accident Claims Tribunal,
Small causes Court, Chennai.

copy to
The Section Officer
VR Section
High Court, Madras

+1 cc to M/s.N.Vijayaraghavan Advocate sr91276
+1 cc to Ms.A.Shanmugaraj Advocate sr90125

C.M.A.No.2113 of 2013

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