

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3356 of 2011
and
M.P.No.1 of 2011

The United India Insurance Co. Ltd.,
No.5, Big Bazar Street,
Dharapuram.Appellant/VI Respondent

.. Vs ..

1. L.Narendra Chowdri1st Respondent/ Petitioner
2. Y.Vinodkumar
3. Rakkiyappan
4. The Oriental Insurance Co. Ltd.,
Coimbatore.
5. The United India Insurance Co., Ltd.,
Main Road, Pollachi.

(Exonerated from liability before MACT.
Notice may be given up)

6. Sakthivel
(Set ex-parte before MACT.
Notice may be given up) ..Respondents 2 to6/ Respondents

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 07.03.2011 made in M.C.O.P.No.1536 of 2006 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court-I), Coimbatore.

For Appellant : Mr.T.Ravichandran
For R-1 : Mr.T.Balaji
For R-4 : Mr.S.Manohar
For R2 &R3 : N.A.
For R5 &6 : Given up

JUDGMENT

The Insurance Company has filed this civil miscellaneous appeal challenging the Judgment and decree dated 07.03.2011 passed by the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court-I), Coimbatore, in M.C.O.P.No.1536 of 2006.

2. The accident in this case happened on 25.12.2004 at about 12.45 p.m. near Mahaliyamman Koil, Oppanakara Street, Coimbatore. When the injured/claimant/Narendra Chowdry, aged about 36 years, working as a Sales Representative in Shoba Textiles, Coimbatore, was riding his Motor Cycle bearing Registration No.TNT-7877, the second respondent herein drove a Van bearing Registration No.TN-39-C-9225 from South to North direction without keeping the traffic rules with a high speed and hit the motor cycle of the injured/claimant and as a result of which, the injured/claimant sustained grievous head injuries on his back side and multiple fracture over his abdomen and also sustained fractures on his left leg joint. Thereafter, he was taken and admitted into K.G.Hospital by the nearers. The injured/claimant has filed a claim petition claiming a sum of Rs.10,00,000/- as compensation.

3.The injured/claimant examined himself as P.W.1 and Doctor was examined as P.W.2. Exs.P.1 to P.19 were marked on the side of the injured/claimant. One Saroja was examined as R.W.1 and no document was marked on the side of the appellant-Insurance Company.

4. After hearing both the parties and the manner of the accident and rash and negligent driving on the part of the driver of the van, the Tribunal has awarded a sum of Rs.3,68,000/- with interest at 7.5% per annum, as compensation to the injured/claimant by fixing the liability on the part of the driver of the van which does not call for any interference by this Court, in view of the presence of the acceptable evidence. On the question of quantum, based upon Ex.P.13-medical bill produced by the claimant to the tune of Rs.2,94,103/-, the same has been allowed by the Tribunal and based upon the evidence of P.W.2-Dr.R.Sekar, who had issued Permanent disability certificate-Ex.P.18 and also assessment bill for the future expenses under Ex.P.19, the Tribunal has fixed the permanent disability suffered by the claimant as 12.5%. Based upon the evidence of P.W.2-Doctor and Ex.P.17-Ex-ray series and Ex.P.18-Permanent Disability Certificate, I am of the view that such a finding fixing the permanent disability at 12.5% does not call for any interference by this Court and the compensation awarded by the Tribunal under other heads also found to be just and reasonable. On the whole, the quantum of

compensation awarded by the Tribunal cannot be said to be excessive for the nature of injuries sustained by the injured/claimant, warranting interference and therefore, the appeal is liable to be dismissed.

5. In the result, the Civil Miscellaneous Appeal is dismissed and the award dated 07.03.2011 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-I, Coimbatore, in M.C.O.P.No.1536 of 2006, is confirmed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

6. If the award amount with accrued interest has not been deposited, the appellant-Insurance Company is directed to deposit the entire award amount with accrued interest at the rate of 7.5% per annum from the date of claim petition with costs, to the credit of M.C.O.P.No.1536 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-I, Coimbatore, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the first respondent/claimant is permitted to withdraw the same.

Jrl

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Judge, Fast Track Court-I,
Motor Accidents Claims Tribunal, Coimbatore.
2. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.T.Ravichandran, Advocate, SR.No.11531
+1cc to Mr.A.Thiagarajan, Advocate, SR.No.10650
+1cc to Mr.S.Manohar, Advocate, SR.No.10647

C.M.A.No.3356 of 2011

Kak(25/04/2019)