

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.509 of 2011
and
MP.No.1 of 2011

The Divisional Manager,
United India Insurance Co.Ltd.,
Nethaji Road,
Cuddalore - 607 001.

...Appellant/2nd Respondent

Versus

1.M.Ramalingam ...1st Respondent/ Claimant

2.K.Raja ...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 09.11.2009 made in MCOP No.2404 of 2006 on the file of the Motor Accident Claims Tribunal (I-Additional Subordiante Judge) at Cuddalore.

For Appellant : Mr.J.Chandran for Mr.T.M.Venkatraman

For Respondents: Mr.R.Sreedhar
for M/s.Sreethi Law firm (for R1)

: Mr.R.Gopalakrishnan (for R2)

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 09.11.2009 made in MCOP No.2404 of 2006 on the file of the Motor Accident Claims Tribunal (I-Additional Subordiante Judge) at Cuddalore.

2.The case of the claimant/first respondent herein before the Tribunal is that on 11.07.2006, at about 11.10 am, the claimant/first respondent herein was riding a bicycle and keeping extreme left of the Poonkunnam Thirupachanur Road, near Puthumariamman Kovil, Poonkunnam at that time the second respondent (owner cum driver) has drove the lorry bearing Regn.No.TN-09-F-2754, which was insured with the

appellant/Insurance company from the opposite direction at a hectic speed in a rash and negligent manner without noticing the rider of the bicycle and hit the claimant, due to which, he sustained grievous injuries over the head and chest, compound fracture over left humerus both bones and multiple injuries all over the body. Hence, the claimant/first respondent herein filed a claim petition in MCOP No.2404 of 2006 before the Tribunal claiming a sum of Rs.7,00,000/- lakhs as compensation.

3.The Tribunal after analysing the evidence and materials available on record, came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the lorry and had awarded a sum of Rs.1,44,000/- to the claimant/first respondent herein and directed the appellant/Insurance company and the second respondent jointly and severally to pay the compensation with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation. Being aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal has been filed by the appellant/Insurance Company.

4.Before the Tribunal, Ex's.P1 to P9 were marked and PW.1 and PW.2 were examined. It is seen that the claimant was examined as PW.1, and PW.2/Dr.V.Ramalingam, who had issued Ex's.P.3, wound certificate, P.4, Pondicherry P.I.M.S hospital discharge summary, P.5, Medical bills, P.8, disability certificate and P.9, X-ray, the medical evidence given by the above said Doctor for permanent disability was accepted by the Tribunal and passed appropriate orders.

5.Considering the medical evidence on the side of the claimant/first respondent herein has fixed the permanent disability of 50% and awarded a sum of Rs.80,000/- at the rate of Rs.1600/- per percentage. However, the Tribunal has awarded a sum of Rs.15,000/- towards pain and sufferings and another sum of Rs.30,000/- for medical expenses along with transportation and extra nourishment, for the loss of income, during the period of treatment for three months the Tribunal awarded a sum of Rs.9,000/- and a sum of Rs.10,000/- towards the loss of earning power. Thus, the Tribunal has awarded a sum of Rs.1,44,000/- as total compensation to the claimant, the break-up details of the compensation amount awarded by the Tribunal are as follows:-

Heads	Amount awarded by the Tribunal
50% of permanent disability	Rs.80,000/-
Pain and Sufferings	Rs.15,000/-
Medical expenses, Transport to Hospital and Extra Nourishment	Rs.30,000/-

Heads	Amount awarded by the Tribunal
Loss of Income for the period of three months treatment	Rs.9,000/-
Loss of earning power	Rs.10,000/-
Total	Rs.1,44,000/-

6.I have heard the learned counsel appearing for the appellant and perused all the materials available on record.

7.Considering the occupation of the claimant and the medical evidence Ex's.P3, P8 and P9 produced by PW.2, I find that the compensation amount of Rs.1,44,000/- awarded by the Tribunal is just and reasonable. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal. Therefore, the appeal is liable to be dismissed.

8.Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest, after adjusting amount, if any, already deposited within a period of eight weeks from the date of copy of this Judgement. On such deposit, the respondents/claimants are permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.
klt

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal
(I-Additional Subordinate Judge), Cuddalore.

Copy to:-

The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.J.Chandran, Advocate, SR.No.11986

+1cc to Mr.R.Sreedhar, Advocate, SR.No.11212

CMA No.509 of 2011
and
MP.No.1 of 2011

Kak(17/06/2019)