

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.630 of 2011
and
M.P.No.1 of 2011

M/s. National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai - 600 002. ...Appellant/2nd Respondent

.. Vs ..

1. Kanniappan ...1st Respondent/Petitioner

2. N.Thirunavukkarasu ...2nd Respondent/ 1st Respondent
(R-2 set ex-parte in Lower Court)

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 04.03.2010 made in M.C.O.P.No.946 of 2006 on the file of the Motor Accidents Claims Tribunal (V Judge, Court of Small Causes), Chennai.

For Appellant : Mr.S.Vadivel
For R-1 : No Appearance
For R-2 : Ex-parte

JUDGMENT

The Insurance Company has filed this civil miscellaneous appeal challenging the Judgment and decree dated 04.03.2010 passed by the Motor Accidents Claims Tribunal (V Judge, Court of Small Causes), Chennai, in M.C.O.P.No.946 of 2006.

2. The accident in this case happened on 11.03.2006 at about 8.30 a.m., at Kanniampalayam to Pasuvanpalayam Road near Kaltheekumaram and in the said accident, the injured/claimant has sustained grievous injuries and hence, he has filed a claim petition claiming a sum of Rs.4,00,000/- and restricted to Rs.2,00,000/- 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.6 were marked on the side of the injured/claimant. No witness was examined 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 motorcycle bearing Registration No.TN-20-T-7239, the Tribunal has awarded to a limited extent of Rs.1,00,000/- 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 said motorcycle which does not call for any interference by this Court, in view of the presence of the acceptable evidence. As against the said finding, the Insurance Company has preferred the above appeal questioning the quantum of compensation.

5. It appears that P.W.2-Dr.J.R.R.Thiagarajan, in his evidence, has categorically deposed that based upon Ex.P.2-Discharge summary issued by Government Stanley Hospital, Chennai, the claimant has suffered fracture of tibial condyle right and comminuted fracture of fibula and was treated as inpatient from 12.03.2005 to 28.03.2005 and MTPT and Tube case was done. It is further deposed that as per Ex.P.3-OP Chit, the claimant had taken further treatment as outpatient in the same hospital. P.W.2-Dr.J.R.R.Thiagarajan has also deposed about the nature of injuries sustained by the claimant.

6. With regard to the nature of injuries, percentage of disability has been fixed by the Tribunal at 40% and compensation has been arrived at a sum of Rs.60,000/- towards partial permanent disability by granting Rs.1,500/- for 1% of disability.

7. After going through the oral evidence of P.W.2-Doctor and Ex.P.5-Disability Certificate issued by P.W.2, I am of the view that such a finding given by the Tribunal by fixing the permanent disability at 40% 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.

8. In the result, the Civil Miscellaneous Appeal is dismissed and the award dated 04.03.2010 passed by the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai, in M.C.O.P.No.946 of 2006, is confirmed.

9. If the award amount with accrued interest has not been deposited, the appellant-Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% per annum from the date of claim petition and costs, less the amount already deposited, if any, to the credit of M.C.O.P.No.946 of 2006 on the file of the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai, 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 award amount along with interest and costs, less the amount already withdrawn, if any. No costs. Consequently, the connected miscellaneous petition is closed.

Jr1

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The V Judge, Court of Small Causes,
The Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.S.Vadivel, Advocate, SR.No.12675/19

C.M.A.No.630 of 2011

Kak(20/05/2019)

WEB COPY