

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2019

CORAM :

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.735 of 2011
and
MP.No.1 of 2011

The Oriental Insurance Co, Ltd.,
Cuddalore. ...Appellant / 2nd Respondent

Versus

1.Venkatesan ...1st Respondent/Petitioner

2.Raveendran ...2nd Respondent/1st Respondent

Common Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.10.2010 passed in M.C.O.P.No.93 of 2008, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Neyveli.

For Appellant :Mr.Vijayaraghavan

For Respondents :Mrs.S.R.Sumathy (for R1)

:Exparte - R2

J U D G M E N T

The Insurance company is the appellant herein and they preferred this present appeal as against the award of the Tribunal, on the ground of compensation under the head of disability is highly excessive.

2.The facts of the case are not in dispute. The mode and manner of the accident is also not in dispute. So, this Court is not traversing into these aspects once again.

3.The learned counsel appearing for the Insurance company would contend that on the point of quantum, the compensation awarded by the Tribunal is on the higher side at the relevant point of time. Hence, he seeks to reduce the compensation under the head of disability. Hence, the appeal.

4.The learned counsel appearing for the first respondent/claimant would contend that as per Ex.P8/driving licence of the driver/second respondent herein, and Ex.P9/ Insurance policy copy, the Tribunal has rightly come to the conclusion that the owner and the insurer are jointly and severally liable to pay the sum of Rs.1,70,000/- as compensation to the claimant. Hence, he prayed for dismissal of this appeal.

5.I have heard either counsel of the parties and perused the materials adduced before the Tribunal.

6.Based upon the evidence of PW.2/Doctor, who examined the claimant and assessed the disability at 40% arising out of head injuries, the Tribunal has awarded proper compensation of Rs.1,60,000/- towards disability, which is just and reasonable.

7.Considering the nature of the injury, the Tribunal fixed at the rate of Rs.3,000/- per percentage, which is also accepted by this Court, since the injuries being to the head, could rise any complications at any point of time for the injured victim/claimant. Furthermore, the appellant/ Insurance company could not press the appeal on the ground of quantum since by efflux of time the compensation awarded by the Tribunal cannot be said to be on the higher side. Therefore, the award passed by the Tribunal is just and reasonable. Hence, this Court does not want to interfere with the award of the Tribunal and the same is hereby confirmed.

8.In the result, the Civil Miscellaneous Appeal filed by the appellant/Insurance company is dismissed by confirming the Judgment and decree dated 30.10.2010 made in M.C.O.P.No.93 of 2008, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Neyveli.

(i) The Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest 7.5%, after adjusting amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the claimant is entitled to withdraw the same with accrued interest, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

klt

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
Subordinate Court, Neyveli.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to M/s.N.Vijayaraghavan, Advocate, S.R.No.39448

+1 cc to M/s.S.R.Sumathy, Advocate, S.R.No.38721

C.M.A.No.735 of 2011
and
MP.No.1 of 2011

CP(CO)
SSM(04/09/2019).



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