

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.667 of 2019
and C.M.P.No.2033 of 2019

The United India Insurance Co. Ltd.,
Oriental Complex,
No.77, A.A. Street, Salem.

.... Appellant/2nd Respondent

Vs.

1.Kaveriammal 1st Respondent/Petitioner

2.A.Asmath Boe 2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 27.01.2004, made in M.C.O.P.No.914 of 2001, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Salem.

For Appellant : Mr.T.Ravichandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company against the award dated 27.01.2004, made in M.C.O.P.No.914 of 2001, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Salem.

2.Heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant-Insurance Company is 2nd respondent in M.C.O.P.No.914 of 2001, on the file of the Principal Sub Court, (Motor Accident Claims Tribunal), Salem. The 1st respondent filed the said claim petition claiming a sum of Rs.5,00,000/- as

compensation for the injuries sustained by her in the accident that took place on 25.02.2001. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the auto belonging to the 2nd respondent and directed the appellant-Insurance Company as well as the 2nd respondent to jointly and severally pay a sum of Rs.84,450/- as compensation to the 1st respondent. Challenging the said award dated 27.01.2004, made in M.C.O.P.No.914 of 2001, granting compensation to the 1st respondent, the appellant-Insurance Company has come out with the present appeal.

4.It is the contention of the learned counsel appearing for the appellant-Insurance Company that the Tribunal erred in fixing liability on the appellant-Insurance Company without considering the fact that the driver of the auto belonging to the 2nd respondent did not possess endorsement or badge to drive the auto. The Tribunal failed to consider the evidence of R.W.1 and Ex.R1 and erred in adopting the multiplier method and granted compensation under various heads, which are excessive. The said contentions are contrary to the materials available on record. The Tribunal considering the evidence of P.W.1/eye-witness who deposed the manner of accident, Ex.P1-FIR registered against the driver of the auto belonging to the 2nd respondent, Ex.P5-Charge sheet, Ex.P6-Motor Vehicle Inspector's Report and the fact that the driver of the auto possessed driving licence, held that the accident occurred due to rash and negligent driving by the driver of the auto belonging to the 2nd respondent and directed the appellant as insurer and 2nd respondent as owner to pay compensation. The Tribunal considering the materials on record, fixed 35% disability suffered by the 1st respondent and as per II Schedule of 163-A of the Motor Vehicles Act, applied the multiplier of '13' and awarded compensation under the head, loss of income. The Tribunal considering all the materials on record in proper perspective, awarded compensation under different heads which are not excessive. There is no error in the said award warranting interference by this Court.

5.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.84,450/- awarded by the Tribunal as compensation to the 1st respondent/claimant, along with interest and costs is confirmed. The appellant-Insurance Company as well as the 2nd respondent are jointly and severally directed to deposit the award amount with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.914 of 2001. On such deposit, the 1st respondent is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already

withdrawn, by filing necessary applications before the Tribunal.
No costs. Consequently, connected Miscellaneous Petition is
closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Principal Subordinate Judge,
(Motor Accident Claims Tribunal), Salem.

C.M.A.No.667 of 2019
and C.M.P.No.2033 of 2019

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