



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1171 of 2018  
and C.M.P.No.9663 of 2018

The Branch Manager,  
United India Insurance Co. Ltd., Branch Office,  
Krishnagiri Town and District. ..Appellant/2<sup>nd</sup> Respondent

Vs.

1.C.Saranraj ..1<sup>st</sup> Respondent/Claimant  
2.S.Selvam ..2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.10.2016 made in M.C.O.P.No.3501 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.

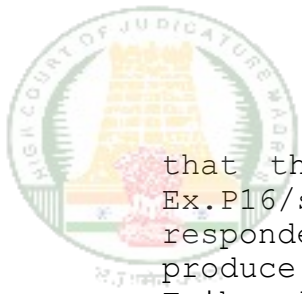
For Appellant : Mr.C.Paranthaman  
For R1 : Mr.T.Panchatsaram  
For R2 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, challenging the award dated 07.10.2016 made in M.C.O.P.No.3501 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.

2.The appellant/Insurance Company is the 2<sup>nd</sup> respondent in M.C.O.P.No.3501 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri. The 1<sup>st</sup> respondent filed the said claim petition claiming a sum of Rs.7,50,000/- as compensation for the injuries sustained by him in the accident that took place on 11.11.2013. 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 pick up van belonging to the 2<sup>nd</sup> respondent and directed the appellant/Insurance Company to pay a sum of Rs.7,34,600/- as compensation to the 1<sup>st</sup> respondent. Against the said award dated 07.10.2016 made in M.C.O.P.No.3501 of 2013, the appellant/Insurance Company has come out with the present appeal.

3.The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal erred in fixing negligence on the part of the driver of the 2<sup>nd</sup> respondent and fastening liability on the appellant instead of exonerating the appellant. The injuries sustained by the 1<sup>st</sup> respondent are only non-schedule injuries. The Tribunal erred in adopting multiplier method instead of applying percentage method for granting compensation towards disability. The Tribunal failed to note

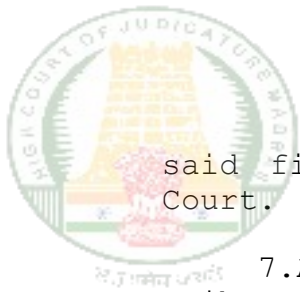


that the name of the trainee mentioned in Ex.P15/pay slip & Ex.P16/salary certificate is 'Saranrasu', whereas the 1<sup>st</sup> respondent's name is 'Saran Raj'. The 1<sup>st</sup> respondent did not produce the driving license at the time of the accident. The Tribunal without any basis accepted the percentage of disability fixed by PW2/Doctor and without any basis, fixed income of the 1<sup>st</sup> respondent as Rs.8,000/- per month and awarded compensation. The amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

4.Per contra, the learned counsel appearing for the 1<sup>st</sup> respondent contended that the accident has occurred only due to rash and negligent driving by the driver of the pick up van belonging to the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent examined himself as PW1 and marked FIR, which was registered against the driver of the 2<sup>nd</sup> respondent and proved his contention. The appellant did not examine any witness to disprove the contention of the 1<sup>st</sup> respondent and substantiate their case that the 1<sup>st</sup> respondent was responsible for the accident. The Tribunal considering the documents marked through PW3/Deputy Manager, (Human Resources) in Corborandum Univercel Pvt. Ltd., Hosur, held that the 1<sup>st</sup> respondent was a trainee and was earning a sum of Rs.8,750/- per month. The Tribunal has rightly awarded compensation by adopting multiplier method as the 1<sup>st</sup> respondent has suffered functional disability and lost his earning capacity and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 1<sup>st</sup> respondent and perused all the materials available on record.

6.From the materials available on record, it is seen that the 1<sup>st</sup> respondent has contended that the accident occurred due to rash and negligent driving by the driver of the pick up van belonging to the 2<sup>nd</sup> respondent. On the other hand, it is the contention of the appellant that the 1<sup>st</sup> respondent accepted the accident and that there is no negligence on the part of the driver of the van belonging to the 2<sup>nd</sup> respondent. From the award of the Tribunal, it is seen that the 1<sup>st</sup> respondent examined himself as PW1 and deposed that the accident occurred only due to negligence on the part of driver of pick up van belonging to 2<sup>nd</sup> respondent and marked Ex.P1/FIR, which was registered against the driver of the van belonging to the 2<sup>nd</sup> respondent. The appellant has not examined the driver of the van belonging to the 2<sup>nd</sup> respondent or any other witness to prove that the accident did not occur due to rash and negligent driving by the driver of the van belonging to the 2<sup>nd</sup> respondent and to prove that the accident occurred only due to rash and negligent driving by the 1<sup>st</sup> respondent. Even though the FIR was registered against the driver of the van belonging to the 2<sup>nd</sup> respondent, the contents of the FIR were not objected by the appellant or 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent or driver of the lorry did not lodge any complaint against the 1<sup>st</sup> respondent. The Tribunal considering all the above materials, held that the accident has occurred only due to rash and negligent driving by the driver of the van belonging to the 2<sup>nd</sup> respondent. There is no error in the



said finding of the Tribunal warranting interference by this Court.

7.As far as quantum of compensation is concerned, the Tribunal considering the evidence of the 1<sup>st</sup> respondent when he deposed before the Tribunal as PW1 and the nature of work and the functional disability suffered by him, held that the 1<sup>st</sup> respondent cannot do the work as he was doing earlier, fixed disability of the 1<sup>st</sup> respondent at 30% and awarded compensation towards loss of earning power by adopting multiplier method. The Tribunal has fixed a sum of Rs.8,000/- per month as notional income of the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent is a diploma holder in EEE. The accident is of the year 2013 and the notional income fixed by the Tribunal is not excessive. Further, the amount granted by the Tribunal under the head of loss of earning power and other heads are not excessive. In my considered opinion, the compensation awarded by the Tribunal is just and reasonable and the same does not warrant any interference by this Court.

8.In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.7,34,600/- awarded by the Tribunal as compensation to the 1<sup>st</sup> respondent along with interest and costs is confirmed. The appellant/Insurance Company is directed to deposit the award amount together 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. On such deposit, the 1<sup>st</sup> respondent/claimant is permitted to withdraw the entire amount awarded by the Tribunal along with interest and costs, less 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

To

The Special Subordinate Judge,  
Motor Accident Claims Tribunal, Krishnagiri.

Copy to : The Section Officer, VR Section,  
High Court of Madras.

+1 cc to M/s.C.Paranthaman, Advocate Sr.No. 41030

AKM/04.09.19/3P-4C /

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