

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.07.2019
CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.131 and 132 of 2008
and M.P.Nos.1 and 1 of 2008

National Insurance Company Ltd.,
No.751, Anna Salai,
Chennai - 600 002.

... Appellant in both CMAs/2nd respondent

Vs.

1.Vijayalakshmi Mani ...1st respondent/Claimant
2.Bhupesh Kumar ...2nd Respondent in CMA.131 of 2008/
1st respondent

1.Prithivi Mani
(R1 declared as major and his father
and next friend Mani discharged from the guardianship
as per the order of this Court dated 05.11.2009
in MP Nos.1 and 2 of 2009)

2.Bhupesh Kumar ...2nd Respondent in CMA.132 of
2008/1st respondent

Common Prayer: Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, 1988 against the Common Judgment
and decree dated 17.09.2007 made in M.A.C.T.O.P.Nos.5209 and
5213 of 2002 respectively, on the file of the Motor Accidents
Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Vadivel
in both CMAs

For Respondent 1: Mr.P.D.Selvaraj
in both CMAs

C O M M O N J U D G M E N T

The case in brief, is as follows:

On 27.02.1999 at about 9.00 a.m., when the first respondent
in these appeals were travelling as rider and pillion rider in
the TVS Scooty two-wheeler bearing Reg.No.TN 07 F 3064 from
South to North direction in the Padmavathiar Salai, Chennai, the
Maruti Van, belonging to the second respondent and insured with

the appellant Insurance Company, bearing Registration No.TN 04 E 1801 came from behind in a rash and negligent manner and dashed against the TVS Scooty. Due to the said impact, the first respondent in these appeals sustained grievous injuries. Both the injured have filed separate claim petitions before the Tribunal claiming compensation. Considering the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,01,930/- with interest at the rate of 7.5% per annum from the date of petition, in respect of the first respondent in C.M.A.No.131 of 2008 (MCOP No.5209 of 2002) and a total compensation of Rs.99,000/- with interest at the rate of 7.5% per annum from the date of petition, in respect of the first respondent in C.M.A.No.132 of 2008 (MCOP No.5213 of 2002).

2.Challenging the same, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellant has submitted that the Tribunal has erred in awarding a disproportionate compensation without appreciating the pleadings and the nature of the claims and hence the compensation awarded to the claimants, have to be reduced. But, the learned counsel has not questioned the manner in which the accident took place and the finding of the Tribunal as regards liability, to that effect.

4.The learned counsel for the first respondent in these appeals / claimants has submitted that the Tribunal has considered all the materials and evidence available on record and has rightly awarded the compensation to the claimants, which are just and reasonable and hence the judgment of the Tribunal need not be interfered with by this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the first respondent / claimants in these appeals and perused the materials and evidence available on record, carefully and meticulously.

6.Since the learned counsel for the appellant has not questioned the aspect of liability, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the van and hence the appellant Insurance Company was liable to pay the compensation, is confirmed.

7.In respect of the claim relating to C.M.A.No.131 of 2008, the Tribunal has awarded a sum of Rs.40,000/- towards for partial permanent disability, Rs.10,000/- towards pain and suffering, Rs.2000/- towards transport to hospital, Rs.3000/- towards extra nourishment, Rs.1,29,930/- towards medical bills, Rs.12,000/- towards loss of earnings, Rs.5,000/- towards medical assistance. In respect of the claim relating to C.M.A.No.132 of

2008, the Tribunal has awarded a sum of Rs.40,000/- towards for partial permanent disability, Rs.10,000/- towards pain and suffering, Rs.2000/- towards transport to hospital, Rs.5000/- towards extra nourishment, Rs.30,000/- towards medical expenses, Rs.2000/- towards medical assistance and Rs.10,000/- towards loss of studies. The Tribunal has relied upon the exhibits, evidence of witnesses, medical bills, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimants. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence, the same are confirmed.

8. In the result, both the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed. The appellant / Insurance Company is directed to deposit the award amounts as ordered by the Tribunal with interest and costs, after deducting the amounts if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent in these appeals / claimants are permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

srk/rna
To

1. The II Judge, Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

2. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.P.D.Selvaraj , Advocate SR.No. 64855
+1cc to Mr.S.Vadivel , Advocate SR.No. 64424

C.M.A.Nos.131 and 132 of 2008

A.SK(03/09/2020)