

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1237 of 2006
and C.M.P.No.5162 of 2006

The New India Assurance Company Limited
Legal Cell,
No.46, Moore Street,
Chennai-600 001. Appellant/2nd Respondent

Vs

1.Perumal1st Respondent/Claimant

2.M.Varadharajan
(R-2 since set exparte before the
Tribunal, notice may be dispensed with)
....2nd Respondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 30.06.2004 made in MCOP
No.300/2001 on the file of the Motor Accidents Claims Tribunal
(Sub Court), Ponneri.

For Appellant : Mr.G.Munirathnam

JUDGMENT

This appeal is preferred by the Insurance Company against
the award of a sum of Rs.2,09,320/- towards compensation to the
first respondent / claimant due to the injuries sustained by him
in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 05.09.2001 at about 6.00 a.m.,
the first respondent was driving his Bullock Cart from
Cholavaram to Chennai. When the Bullock Cart reached
Padiyanallur Check Post, a tanker lorry bearing Regn.No.TN-01-
8511 came in a rash and negligent manner and hit against the
back side of the Bullock Cart. Due to the said impact, the first

respondent sustained grievous injuries. The first respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,09,320/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the negligence was on the part of the driver of the Bullock Cart. Further, no police officer was examined to prove negligence on the part of the lorry driver. He also submitted that the quantum of compensation awarded by the Tribunal is excessive and there is no basis for awarding such compensation.

5.Even though this appeal was admitted way back in the year 2006, no steps have been taken by the appellant Insurance Company to serve papers to the other side for their appearance.

6.Heard the learned counsel for the appellant.

7.The first respondent / claimant deposed before the Tribunal that only due to the rash and negligent driving of the driver of the tanker lorry, the accident had occurred. Even though no independent witnesses have been examined, the Tribunal, based on Ex.P1- First Information Report, Ex.P2- Accident Register, Ex.P3-Motor Vehicle Inspector's Report, Exs.P4 and P5 - Discharge Summaries, Ex.P6-Medical Bills and Ex.P8-Opinion of the Doctor, and the injuries sustained by the claimant, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the tanker lorry, which this Court is not inclined to interfere.

8.With regard to the quantum of compensation, the Tribunal has arrived at a sum of Rs.4,60,800/- as the total income of the injured. The said sum has been arrived at by fixing the daily income of the injured at Rs.80/-; fixing the monthly income at Rs.2,400/-; arriving at the annual income at Rs.28,800/- and adopting the multiplier of 16 based upon the age of the deceased (40 years at that time). Since the claimant sustained 40% disability, based on the same, the Tribunal took 40% of the said sum of Rs.4,60,800/- and arrived at Rs.1,84,320/- towards loss of income. The Tribunal has adopted the correct multiplier and correctly assessed the loss of income. Hence the same does not require any interference by this Court. The amounts awarded towards other heads are also very reasonable and hence the same are also confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal,
Sub Court, Ponneri.

2.The Section Officer,
VR Section, Madras High Court.

+1cc to M.G.Muniratnam, Advocate Sr.47217

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srg 22/10/2019

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