

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.189 of 2008
and M.P.No.1 of 2008

The Manager,
Third Party Claims Cell,
National Insurance Co. Ltd.,
66, Greaves Road, Chennai - 6.

: Appellant/2nd Respondent

Vs.

1.M.Kumar

: 1st Respondent/Petitioner

2.Krishnapapaiah

: 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 18.09.2006 made in M.C.O.P.No.204 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, (FTC - 1), Chengalpattu.

For Appellant : Mr.S.Arunkumar
For Respondents : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of a sum of Rs.1,12,100/- towards compensation to the 1st respondent herein granted by the Tribunal.

2.The case in brief is as follows:

On 25.09.2000, at about 5.00 p.m., the 1st respondent herein viz., Kumar was walking on the left side mud portion of GST Road. When he reached near Guduvancherry Bus Stand, the Van bearing Reg.No.TN 02 A 6291 which was proceeding from Maramalainagar to Chennai driven by its driver rashly and negligently at high speed, hit the 1st respondent herein. Due to the impact, the first respondent sustained grievous injuries. He was admitted in the Government Hospital, Chengalpattu for treatment. The claimant filed a claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal has awarded a total compensation of Rs.1,12,100/- with interest at the rate of 7.5% 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 Tribunal has erred in awarding a disproportionate compensation without appreciating the pleadings and the nature of the claim. Further, the learned counsel submitted that the Tribunal has failed to note that the claimants have not established the negligence on the part of the driver of the van by examining any eye witness or official witness and mere production of First Information Report was not sufficient to fasten the liability and further, no oral or documentary evidence has been produced before the Tribunal. The learned counsel also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record. Despite notice ordered on the respondents, they are not present before this Court today.

6.PW1/claimant has deposed to the effect that the driver of the van was responsible for the accident. The same was supported by Ex.P1 First Information Report which discloses that the accident had occurred only due to the rash and negligent driving of the Van driver. Considering the materials and evidence adduced on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van. This Court is of the opinion that the findings on negligence by the Tribunal needs no interference for more than one reason. There are no evidence or documents placed by the appellant herein before the Tribunal and further factum of accident was not denied by the appellant. It is also seen that there was no contra evidence to the evidence of the claimant.

7.Regarding the quantum of compensation awarded by the Tribunal, in the absence of any documentary proof thereof, the Tribunal has taken the monthly income of the injured at Rs.2000/- as tailor, calculated the annual income at Rs.24,000/-, adopted the multiplier of 13 and awarded a sum of Rs.93,600/- towards loss of income for 30% disability. Further, the Tribunal has awarded a sum of Rs.3500/- towards loss of income during the treatment period and Rs.5000/- each towards medical expenses, pain and suffering and mental agony. Thus the Tribunal has awarded a total compensation of Rs.1,12,100/-. To arrive at such a quantum, the Tribunal has taken note of Ex.P4 disability certificate, Ex.P3 X-Ray and Ex.P2 Case Sheet. Hence, this Court is of the view that the amounts awarded by the Tribunal under the various heads are just and reasonable and hence the same are confirmed as such.

8.In the result, this 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 and costs, after deducting the amount 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 / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court - 1, Chengalpattu.

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

+1cc to Mr.S.Arunkumar, Advocate, SR.No.64752.

C.M.A.No.189 of 2008
and M.P.No.1 of 2008

RSK (CO)
CSR: 18.03.2020

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