

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2002 of 2008 and
M.P.No.1 of 2008

The Divisional Manager
United India Insurance Company Ltd
7-A, Varadhanar Street
Vedachalam Nagar
Chengalpattu - 1 ... Appellant / 2nd Respondent

Vs

1. Ranjit Kumar ... 1st Respondent/1st Respondent
2. Vijay (minor)
rep by his father and natural guardian
Chandar ... 2nd Respondent/Petitioner

Prayer: Appeal under Section 173 of the Motor Vehicles
Act 1988 against the judgment and decree dated 29.03.2005
made in MCOP No.152 of 2002 on the file of the Motor
Accidents Claims Tribunal/Subordinate Court,
Madurantakam.

For Appellant : Mr.C.R.Krishnamoorthy

For Respondents: R1 - Exparte
R2 - No appearance

J U D G M E N T

The facts of the case in brief, are as follows:

On 09.05.2001, at about 08.00 hours, the second
respondent/claimant was proceeding in the mud portion of
the G.S.T.Road, by walk. When he reached near
Kallabiranpuram, the motorcycle bearing Reg.No.TN-21-Y-
4579 belonging to the first respondent and insured with
the appellant Insurance Company, came in a rash and
negligent manner and dashed against the claimant. Due to
the said impact, the claimant sustained grievous
injuries. Contending that the accident had happened only
due to the rash and negligent driving of the driver of
the two wheeler, the claimant filed a claim petition,
claiming a compensation of Rs.4,00,000/- before the
Tribunal.

2.Considering the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.3,00,000/- 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 appeal.

4.Despite service of notice, there is no representation on behalf of the respondent/claimant.

5.The learned counsel for the appellant has submitted that the Tribunal, in the absence of any proper eye-witness to the accident, ought not to have arrived at the conclusion that the accident was due to the negligence on the part of the rider of the motorcycle. He further submitted that the award passed by the Tribunal needs significant reduction.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.The injured's father has been examined as P.W.1 before the Tribunal. He deposed that when his son, the claimant herein, was standing in the G.S.T.Road waiting for the bus to go to the school, the two-wheeler in question came in a rash and negligent manner and dashed against him and because of the same, he sustained injuries. As per Ex.P1-First Information Report, it is seen that a lorry came very close to the two-wheeler and due to the same, the rider of the two-wheeler came towards the left side and dashed against the claimant. Considering the materials and evidence available on record, the Tribunal observed that had the rider of the two-wheeler been slow and cautious in his riding, the accident would have been averted. In the circumstances, the Tribunal fixed the negligence on the part of the rider of the two-wheeler, which finding this Court is not inclined to interfere.

8.With regard to quantum, the Tribunal has awarded a sum of Rs.2,00,000/- towards medical expenses based upon medical bills and a sum of Rs.1,00,000/- towards loss of amenities, taking note of the fact that the claimant suffered injuries on his head and left leg; that there was loss of memory to the claimant and that his disability has been fixed at 30% by the Doctor. The amounts awarded towards these heads are based on proper analysis of the materials and evidence by the Tribunal and hence the same are confirmed. But the rate of interest fixed by the Tribunal at 9% is reduced to 7.5% per annum from the date of petition, since only the interest rate of 7.5% was prevailing at the time of

accident, in the year 2001.

9.In the result, the Civil Miscellaneous Appeal is partly allowed by reducing the rate of interest from 9% to 7.5% per annum from the date of petition. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the compensation of Rs.3,00,000/- with interest at the rate of 7.5% per annum from the date of petition, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the second respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk/vrn

To

- 1.The Motor Accident Claims Tribunal/
Subordinate Court,
Madurantakam.
- 2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.C.R.Krishnamoorthy, Advocate, S.R.No.64458

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MR (CO)

CB (27/07/2020)

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