

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1530 of 2014

and

MP.No.1 of 2014

The New India Assurance Co. Ltd.,
Amman Complex,
1st Floor, EVN road,
Erode - 638 011.Appellant/3rd Respondent

vs.

1.Murugan Respondent/Petitioner
2.C.Mullaivendhan
3.P.Krishnan ... Respondents 2 & 3/1,2 Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 06.08.2012 passed in MCOP.No.342 of 2009 on the file of the Motor Accident Claims Tribunal / IV Additional District Court, Erode District.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : No appearance

J U D G M E N T

The New India Assurance Company, the third respondent in MCOP.No.342 of 2009 on the file of the IV Additional District Court, Erode District has filed the present appeal. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident on 01.04.2009.

2. The case of the claimant in nutshell is as follows:

On 01.04.2009, the claimant was riding his motorcycle bearing Registration No.TN 36 B 0435 on Mettur - Bhavani main road, Chittar and at about 01.30 pm, a speeding Maruthi Car bearing Registration No. TN 39 AM 9646 belonging to the third respondent and insured with the present appellant hit the

motorcycle, as a result of which, he sustained grievous injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the Maruthi Car belonging to the third respondent was the cause of the accident and that since the said car was insured with the appellant / New India Assurance Company, the driver, the owner and the insurer of the car are jointly and severally liable to pay compensation.

3. The driver and the owner of the car (second and third respondents) remained absent before the Tribunal and therefore, they were set exparte. The New India Assurance Company contested the claim petition on all the grounds available to the insured. The learned IV Additional District Judge / Motor Accident Claims Tribunal, Erode District after analysing the evidence on record, awarded a compensation of Rs.4,25,480/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, New India Assurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mr.N.Vijayaraghavan, learned counsel appearing for the appellant. No appearance on behalf of the respondents.

5. A perusal of the discharge summary (Ex.A7) shows that the respondent / claimant has sustained the following injuries:

- (i) closed communitated fracture of left clavicle
- (ii) closed fracture of right clavicle
- (iii) closed central fracture dislocation.

Dr.R.Krishnasamy (PW2) had assessed the partial permanent disability sustained by the claimant as 66%. The Tribunal after considering all the aspects of the case, had awarded a just and reasonable compensation of Rs.4,25,480/- together with interest at the rate of 7.5% per annum. By no stretch of imagination, the award passed by the Tribunal can be said to be exorbitant and in the facts and circumstances of the present case, the appeal fails and is dismissed.

6. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.
- (ii) The orders passed by the Tribunal is upheld.

(iii) The appellant / New India Assurance Company is directed to deposit the compensation awarded by the Tribunal i.e., Rs.4,25,480/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.342 of 2009 on the file of the Motor Accident Claims

Tribunal / IV Additional District Court, Erode District within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is at liberty to withdraw the same, after following the due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
The IV Additional District Court,
Erode District.

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

+1cc to M.B.Gopalan, Advocate Sr.93476

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srg 06/02/2020

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