

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.625 of 2006

and

C.M.P.Nos.2588 of 2006 and 1083 of 2010

New India Assurance Co.Ltd.,  
No.46, Moore Street,  
Chennai - 600 001. .... Appellant/2<sup>nd</sup> Respondent

Vs

1.V.C.Chowdry ....1<sup>st</sup> Respondent/Claimant

2.S.Manmull Jain ....2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

(R2-given up) ... Respondents

Appeal under Section 173 of the Motor Vehicles Act  
against the judgment and decree dated 10.03.2004 made in  
M.C.O.P No.2822 of 1999 on the file of the Motor Accident  
Claims Tribunal, Small Causes Court No.II, Chennai.

For Appellant : Mr.J.Chandran

For R1 : Mr.Samykannu

JUDGMENT

This appeal is preferred by the appellant/Insurance  
Company against the award of a sum of Rs.1,02,000/- towards  
compensation to the first respondent, due to the injuries  
suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 02.04.1999 at about 16.50  
hours, the first respondent was proceeding in his Scooter  
bearing Reg.No.TN-07-2952 from North to South direction in  
the Anna Salai, Chennai. When he was nearing the junction  
of Cenataph Road, he stopped the scooter due to signal. At  
that time, the Maruti Van bearing Reg.No.TN-04-E-9554  
belonging to the second respondent and insured with the  
appellant Insurance Company, came from behind in a rash and  
negligent manner and dashed against the scooter. Due to the  
impact, the first respondent fell down and sustained

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.1,02,000/- 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 Civil Miscellaneous Appeal.

4.The learned counsel for the appellant/Insurance Company has submitted that the Tribunal has erred in fastening the liability on the appellant/Insurance Company. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the 1<sup>st</sup> respondent / claimant has submitted that the Tribunal has awarded the compensation which is just and reasonable and hence the same does not require any interference in the hands of this Court

6.Heard the learned counsel for the appellant as well as the learned counsel for the 1<sup>st</sup> respondent and perused the materials available on record carefully and meticulously.

7.As per the evidence of R.W.1/Samson, R.W.2/Saravanan, R.W.3/Senthil Kumar, the driver of the Maruthi van absconded after the accident which clearly shows that the driver of the van was at fault. Considering the materials and evidence available on record, the Tribunal was of the view that had there been no fault on the side of the driver of the van, he ought to have narrated the incident to the police authorities in the place of occurrence itself and only since he was at fault, he absconded from the place of occurrence. Holding so, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the van, which finding this Court is not inclined to interfere.

8.As regards the quantum of compensation, the Tribunal has awarded a sum of Rs.5,000/- towards injuries, Rs.2,000/- towards transport expenses, Rs.3,000/- towards extra nourishment, Rs.5,000/- towards damage to the scooter, Rs.4,000/- towards medical expenses, Rs.8000/- towards pain and suffering, Rs.25,000/- towards 30% disability and Rs.50,000/- towards loss of earning capacity. 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 just and reasonable and hence, the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. The appellant-Insurance Company is directed to deposit the compensation amount with interest and costs, as ordered by the Tribunal, 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 first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gbi

To

1. The Judge,  
Motor Accident Claims Tribunal,  
Small Cause Court-II, Chennai.

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

C.M.A.No.625 of 2006

VBA (CO)  
CB(27/07/2020)

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