

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1790 of 2017

National Insurance Co. Ltd.,
Chennai.

... Appellant/2nd Respondent

Vs.

1.Senthil ...1st Respondent/Petitioner
2.Muthumalai
3.Arumugam
4.The United India Insurance Co. Ltd.,
Villupuram
5.G.Dhanasekaran
6.The United India Insurance Co. Ltd.,
Chennai ... Respondents 2 to 6/1st & 3 to 6 Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP No.79 of 2002 on the file of the Motor Accidents Claims Tribunal (II Additional Subordinate Judge) at Villupuram dated 19.12.2007.

For Appellant : Mr.M.Krishnamoorthy

For R1 : Mr.V.S.Sivasundaram

For R2, R3 & R5 : Exparte

For R4 & R6 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree made in MCOP No.79 of 2002 on the file of the Motor Accidents Claims Tribunal (II Additional Subordinate Judge) at Villupuram dated 19.12.2007.

2.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent/claimant and perused the materials available on record.

3. When this appeal was taken up, it has been brought to the notice of this Court that for the very same accident connected to MACTOP No.79 of 2002, this Court, by order dated 03.04.2017 in CMA No.38 of 2010, passed a detailed judgment thereby confirming the judgment of the Tribunal dated 19.12.2007.

4. The learned counsel appearing for the appellant in this appeal submitted that certain areas were not agitated in the above mentioned appeal and hence he may be permitted to agitate all the points before this Court.

5. This Court is of the view that such a ground cannot be taken by the appellant at this distant point of time. With regard to the aspect of liability, since this Court has already dismissed the appeal made in C.M.A.No.38 of 2010 connected to the MCOP under challenge in this appeal, the same cannot be gone into, as this Court is not inclined to differ from the views taken earlier in the judgment passed in CMA No.38 of 2010. Even with regard to quantum, it is seen that 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 compensation under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Insurance Company is directed to deposit their share of the compensation, as ordered by the Claims Tribunal, less 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.

सत्यमेव जयते
Sd/-

Assistant Registrar (CS-III-MDU)

//True copy//

Sub Assistant Registrar

rgr/km

To

1. The II Additional Subordinate Judge
Motor Accident Claims Tribunal
Villupuram

Copy To : The Section Officer,
V.R.Section,
High Court of Madras.

+1cc to Mr.V.S.Sivasundaram, Advocate SR.No.89387

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GP (CO)
GMY (20/08/2020)



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