



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2019

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU****C.M.A(MD)No.1133 of 2011****and****M.P(MD)No.1 of 2011**

United India Insurance Co. Ltd.,
74, Salai Road, Tiruchirappalli - 18.

.. Appellant/
2nd Respondent

Vs.

1.C.Devarajan

.. 1st Respondent /
Petitioner

2.R.S.Radhakrishnan

[Appeal against R2 is dismissed vide
order dated 10.04.2019]

.. 2nd Respondent/
1st Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 11.10.2000, passed in M.C.O.P.No.619 of 1998 by the Motor Accident Claims Tribunal / Third Additional Sub Court, Tiruchirappalli.

For Appellant : Mr.V.J.Kumaravel

For Respondent No.1 : No appearance

JUDGMENT

It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.45,000/- towards permanent disability, Rs.3,000/- towards pain and sufferings, Rs.5,000/- towards medical expenses, Rs.2,000/- towards extra nourishment, totally Rs.55,000/- as compensation. The Tribunal has directed the appellant / Insurance Company and the second respondent to pay the entire compensation amount with 12% interest per annum from the date of petition till the date of realization. The appellant / Insurance Company has filed this appeal questioning the liability and quantum.

2.The learned counsel appearing for the appellant / Insurance Company would submit that the Tribunal has erroneously fixed liability on the driver of the second respondent. The Tribunal has also awarded Rs.45,000/- towards partial permanent disability, which is on the higher side. Thus, he prayed to set aside the



award passed by the Tribunal.

3. Despite notice being served on the first respondent and his name is being printed in the cause list, there is no representation on behalf of the first respondent either in person or through counsel.

4. Heard the learned counsel appearing for the appellant / Insurance Company and perused the records carefully.

5. The date of accident is on 31.08.1994. The first respondent / claimant himself was examined as P.W.1 and he deposed that at the time of accident, the driver of the second respondent drove the Ambassador Car bearing Registration No.TDF - 1100 in a rash and negligent manner and dashed against the bicycle, which was driven by his friend and he was sitting on the backside. In order to refute the same, the driver of the second respondent has not been examined. The Tribunal after considering the evidence given by P.W.1 as well as Ex.P.1, complaint, has fixed liability on the driver of the second respondent, which in my considered opinion, requires no interference at the hands of this Court.

6. The first respondent / claimant deposed that he sustained grievous injuries on his right leg and all over his body, for which, Ex.P.2, Accident Register has been marked. P.W.2, doctor, has deposed that the first respondent / claimant sustained 30% disability and has given Ex.P.4, disability certificate, to that effect. The Tribunal, after considering the injuries sustained by the first respondent / claimant, has fixed 30% disability and awarded a sum of Rs.45,000/- towards the same, which is not on the higher side. The award passed by the Tribunal towards the other heads i.e., Rs.3,000/- towards pain and sufferings, Rs.5,000/- towards medical expenses and Rs.2,000/- towards extra nourishment, are confirmed.

7. In view of the above, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. It is represented on the side of the appellant / Insurance Company that the entire award amount has been deposited before the Tribunal and the same has been withdrawn by the claimant. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The III Additional Sub Court,
Motor Accident Claims Tribunal,
Tiruchirappalli.

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COPY TO

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1CC TO MR.V.J.KUMARAVEL, Advocate Sr. No. 69867

**JUDGMENT MADE IN
C.M.A(MD) No.1133 of 2011
and
M.P(MD) No.1 of 2011**

PK(CO)

TR (23.07.2019) 3P 5C