IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.911 of 2006
and
C.M.P.No.3598 of 2006
(Through Video Conferencing)

The Oriental Insurance Co. Ltd.,
Represented by its Divisional Manager,
No.75, Krishnan Street,
Thiruvannamalai. ... Appellant/2nd Respondent

Vs.

1.Selvaraj
2.Damodharan ... Respondents/Petitioner and First Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal, (Additional Subordinate Judge), Thiruvannamalai, in M.C.O.P.No.284 of 2003, dated 29.06.2005.

For Appellant : Mr.M.Rajasekhar

J U D G M E N T

Since notice has remained unserved on the contesting 1st respondent who was the claimant before the Tribunal, a fresh opportunity was given to the appellant to serve fresh notice to the respondents when this case was listed for hearing on an earlier occasion, i.e., 10.07.2020. However, it is noticed that notice has not been served to the respondents.

2. As on date, the claimant/1st respondent has left from the address given in the claim petition. Notice on the 2nd respondent has also remained unserved. Therefore, this case is taken up for final disposal based on the arguments advanced by learned counsel for the appellant since no adverse orders are proposed to be passed against the respondents.

3. The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 29.06.2005 passed by the Motor Accidents Claims Tribunal (Additional Subordinate Judge), Thiruvannamalai, in M.C.O.P.No.284 of 2003.

4. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.31,000/- as compensation together with interest at 9% from the date of filing of the claim petition till the date of deposit, payable by the appellant Insurance Company, to the 1st respondent/claimant for the injury suffered by him.

5. The brief facts of the case are that the 1st respondent/claimant met with an accident while he was walking as a pedestrian near Urban Bank, Sannathi Street at Thiruvannamalai Town, on 08.10.2002 at about 10.30 p.m, when an auto bearing registration No.TSJ-788 insured with the appellant Insurance Company driven by its driver in a rash and negligent manner, knocked the 1st respondent/claimant. As a result of the accident, 1st respondent/claimant sustained grievous injuries and was admitted in hospital on 09.10.2002.

6. Therefore, the 1st respondent/claimant filed a claim petition for compensation of Rs.1,00,000/- for injury suffered by him. After considering the evidence on record, the Tribunal has awarded the aforesaid sum of Rs.31,000/- as compensation payable by the appellant Insurance Company. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed by the Insurance Company.

7 I have considered the arguments advanced by the appellant Insurance Company. I have also perused the evidence on record and impugned Judgment and Decree passed by the Tribunal.

8. It is noticed that the 1st respondent/claimant had suffered injuries in the accident, as a result of which, there is fracture in the left clavicle (collarbone). Therefore, the Tribunal has fixed the permanent disability of the 1st respondent/claimant at 15%. It is also noticed that the accident took place on 08.10.2002 and the 1st respondent/claimant was admitted in the hospital on 09.10.2002 and the FIR was filed only on 13.10.2002.

9. It is further noticed that the appellant Insurance Company had filed the counter before the Tribunal denying its liability as there was delay of registering the FIR and the driver of the insured auto was not made a party to the proceedings.

10. In the claim petition, the 1st respondent/claimant had claimed a sum of Rs.1,00,000/- for compensation to injury suffered by him. However, the Tribunal has awarded a sum of Rs.31,000/- together with interest at 9% from the date of filing of the claim petition till the date of deposit. Considering the

nature of injury suffered by the 1st respondent/claimant, there is no valid defence to assail the impugned Judgment and Decree. I am therefore inclined to dismiss this Civil Miscellaneous Appeal filed by the appellant Insurance Company.

11. Therefore, if the amount of compensation awarded by the Tribunal has not been deposited by the appellant Insurance Company, it is directed to deposit the same together with interest as awarde by the Tribunal, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit, the 1st respondent/claimant is permitted to withdraw the same together with interest as directed by the Tribunal, less the amount already withdrawn if any, by filing suitable application.

13. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:-
The Additional Subordinate Judge,
The Motor Accidents Claims Tribunal,
Thiruvannamalai.

Copy to
The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.M.Rajasekhar, Advocate Sr.25312

C.M.A.No.911 of 2006 and
C.M.P.No.3598 of 2006

vg II[co]
srg 06/10/2020