

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1683 of 2010

and

MP No.1 of 2010

The Oriental Insurance Co. Ltd,
Divisional Office,
Dwaraga
79, N.H. Road,
Chennai.

..Appellant/2nd Respondent

Versus

1. Sekar

2. Srirangan ..Respondents/Petitioner, 1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 18.07.2006 made in MCOP No.99 of 2005 on the file of the Motor Accidents Claims tribunal, Sub Judge, Sankari.

For Appellant : Mr.S.Arunkumar

For Respondents : R1 & R2 - Served - No appearance

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 18.07.2006 passed by the Motor Accidents Claims Tribunal, Sub Judge, Sankari in MCOP No.99 of 2005.

2. This appeal has been filed by the appellant / Insurance Company challenging the award on the ground that the second respondent has violated the policy condition by carrying three passenger in a goods vehicle. They have also challenged the quantum of compensation awarded by the Tribunal under the impugned award dated 18.07.2006.

3. Heard Mr.S.Arunkumar, learned counsel for the appellant / Insurance Company. The respondents have been duly served but they remained unrepresented before this Court even though their names have been printed in the cause list today.

4. The details of the award passed in favour of the first respondent, who sustained injuries as a result of an accident caused by the insured vehicle are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of earning capacity (1500 x 120)	1,80,000*
Loss of income	5,000
Transport to Hospital	5,000
Extra Nourishment charges	5,000
Medical bills as per Ex.P5	50,000
Pain and suffering	20,000
Permanent disability	60,000
Total	3,25,000

* The figure should read as Rs.1,80,000/- instead of Rs.1,00,000/-

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Before the Tribunal, the first respondent / claimant has filed 13 documents, which were marked as Exs.P1 to P13 and two witnesses were examined viz., claimant himself as PW1 and his Doctor, who examined him as PW2. On the side of the appellant / Insurance Company neither any document was filed nor any witness was examined before the Tribunal. It is the contention of the claimant, as seen from the claim petition as well as from his oral evidence that he travelled along with the goods in the Mini Auto bearing Registration No.TN-30-5729, which is insured with the appellant. As seen from the oral evidence adduced by the claimant viz., PW1, he was not a gratuitous passenger as alleged by the appellant / Insurance Company. No contra evidence has been produced by the appellant / Insurance Company before the Tribunal to disprove the contention of the claimant.

7. The year of the accident is 2004 and the claim petition was filed in the year 2005. No useful purpose would be served if the quantum of compensation awarded by the Tribunal is interferred at this stage after lapse of almost 16 years from the date of the accident that too when more or less the quantum of compensation is in all likelihood can be created as a just compensation . Even, as regards the

liability as observed earlier, the Tribunal has rightly held that the Driver of the insured vehicle was cause of the accident, since, no contra evidence was produced by the appellant / Insurance Company.

8. For the foregoing reasons this Court does not find any merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realisation, less the amount, if any, already deposited to the credit of M.C.O.P. No.99 of 2005, on the file of the Motor Accidents Claims Tribunal, (Sub Judge, Sankari), within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent / claimant, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(ADI (MDU))

//True copy//

Sub Assistant Registrar

vsi2

To

1. The Sub Judge,
Motor Accidents Claims Tribunal,
Sankari.

2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 104.

+1cc to Mr.S.Arunkumar, Advocate SR.No.25697

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NMI (CO)
GMY (08/09/2020)