

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1691 of 2009

and

M.P.No.1 of 2009

(Through Video Conferencing)

The Oriental Insurance Company Limited,
Represented by its Divisional Manager,
Divisional Office, R.V.K.Buildings,
1st Floor, 54 Dhali Road,
Udumalpet. ... Appellant/3rd Respondent

Vs.

1. Ramakrishnan ...1st Respondent/ Petitioner

2. V.Balasubramanian ...2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.281 of 2005, dated 29.04.2008, on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.IV, Coimbatore at Tiruppur.

For Appellant : Mr.M.Rajasekhar

For Respondents : Mr.K.Rajendra Prasad

JUDGMENT

The Insurance Company is the appellant in this appeal and is aggrieved by the impugned Judgment and Decree dated 29.04.2008 passed by the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court No.IV, Tiruppur) in M.C.O.P.No.281 of 2005.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,04,820/- together with interest at 7.5% per annum from the date of filing of the claim petition, till the date of payment, to the 1st respondent/claimant.

3. It is the case of the appellant Insurance Company that the Tribunal erred in awarding higher compensation, even though the first respondent/claimant had himself stated that he was aged about 24 years at the time of accident and was

earning Rs.3,000/- per month and had completed M.Sc.Degree. It is further submitted that, the Tribunal erred in applying multiplier for awarding the aforesaid compensation.

4. It is submitted on behalf of the appellant that the nature of injuries suffered by the first respondent/claimant did not resolve permanent and partial disability as the C.T Scan revealed E.D.11 in left frontal region with edem, midline shift towards right and fracture at the left frontal bone.

5. On behalf of the first respondent/claimant it was submitted that the impugned Judgment and Decree passed by the Tribunal was well reasoned and requires no interference from this Court. It is further submitted that, the Tribunal has correctly applying the multiplier and the decisions of the Hon'ble Supreme Court in the case of

(i) Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12,

(ii) National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680,

(iii) Sanjay Verma Vs Haryana Roadways, (2014) 3 SCC 210, the compensation to be awarded to the first respondent would be much higher. It is further submitted that even as per the decision of the Hon'ble Supreme Court in the case of V.Mekala Vs Malathi and Another, (2014) 11 SCC 178, the compensation would be much higher.

6. I have considered the arguments advanced on behalf of the appellant and the respondents.

7. This appeal is of the year 2009. The accident had taken place on 02.08.2004 at about 04.00 p.m., when the first respondent/claimant met with an accident, he was knocked down by the insured vehicle belonging to the second respondent. The evidences adduced by the first respondent/claimant in terms of Ex.P10, the disability certificate marked through P.W.2 establishes that there was permanent and partial disability and had impacted the earning capacity of the first respondent/claimant.

8. Considering the fact that the compensation that would be awarded to the first respondent was much higher if the decisions cited above are applying to the facts of the case. I am of the view, that the impugned Judgment and Decree passed by the Tribunal requires no interference. Accordingly, the appeal filed by the appellant Insurance Company is dismissed.

9. It is mentioned that at the time of admission, the appellant Insurance Company had already deposited a sum of Rs.2,00,000/- out of which a sum of Rs.1,00,000/- was permitted to be withdrawn.

10. 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 at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of the copy of this Judgment.

11. On deposit of the award amount, the first respondent/claimant is entitled to withdraw the same together with interest as directed by the Tribunal, less any amount already withdrawn, by filing suitable application before Tribunal.

12. With the above observation and direction, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal,
Fast Track Court No.IV, Coimbatore at Tiruppur.

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

+1cc to Mr.M.Raja , Advocate SR.No. 26223

C.M.A.No.1691 of 2009
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A.SK(06.01.2021)

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