

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1773 of 2010 and

and M.P.No.1 of 2010

M/s.National Insurance Company,

73, Perundurai Road,

Near Collector Office, Post Box No.911,

Erode 638 011.

.. Appellant/2nd Respondent

vs

1.S.Kannammal

..Respondent/Petitioner

2.GanesaMoorthy

..Respondent/Ist Respondent

3.Chandrasekar

...Respondents/II Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 25.02.2008 made in M.ACT.O.P.No.40 of 2007 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate's Court) Erode.

For Appellant : M/s.N.B.Surekha

For R2 & R3 : No Appearance

JUDGMENT

Though notice has not been served on the first respondent, since no adverse order is proposed to be passed against the first respondent, this appeal is taken up for hearing and final disposal.

2. The appellant/Insurance company is aggrieved by the order dated 25.02.2008 passed by the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate's Court) Erode in M.C.O.P.No.40 of 2007 (for brevity, hereinafter referred to as "the Tribunal").

3. In this appeal, the appellant-Insurance Company has questioned the quantum of compensation awarded to the first respondent-claimant.

4. By the said impugned order, the Tribunal has awarded for a sum of Rs.1,70,000/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit to the first respondent/claimant herein.

5. The case of the appellant-Insurance Company is that the Tribunal had wrongly applied the multiplier for the injury by fixing 30% permanent disability to the first respondent-claimant. It is submitted that the award amount of Rs.1,44,000/- for future pecuniary loss by adopting multiplier of 16 following the second schedule under Section 163 A of the Motor Vehicles Act is totally wrong whereas the claim petition was filed under Section 166 of the Motor Vehicles Act.

6. The Tribunal has considered the nature of the injury suffered by the first respondent-claimant. The first respondent-claimant was vegetable vendor and was aged 30 years and was earning a sum of Rs.4,000/- p.m and when there he was sitting in a bus stop at Palliuthu Mettumandaipalam, the second respondent's driver of the Maruthi Van bearing Reg.No.TN.33 Q 7997 drove the same in a rash and negligent manner and hit the first respondent, as a result of which, the first respondent sustained grievous injuries. The first respondent herein thus filed a claim petition for a compensation of Rs.2,50,000/-. Considering the facts and circumstances of the claim petition, the Tribunal has awarded the aforesaid compensation of Rs.1,44,000/- vide the impugned Judgment and Decree.

7. Before the Tribunal, the first respondent filed medical records and P.W.2-doctor deposed and stated that the permanent disability of the first respondent as 30%. The Tribunal fixed a notional income of the first respondent as Rs.2,500/-. The notional income of the deceased fixed by the Tribunal appears to be reasonable, even though, the Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co.Ltd., (2014) 2 SCC 735, had fixed the income of a vegetable vendor as Rs.6,500/- per month. The Tribunal has applied multiplier method and has correctly awarded a sum of Rs.1,44,000/- towards permanent disability.

8. Further, the claims pertains to the year 2007 and the accident is said to have taken place on 02.10.2005. In my view, compensation awarded by the Tribunal is a just compensation and requires no interference.

9. I find no merits in the present Civil Miscellaneous Appeal filed by the appellant Insurance Company. Therefore, the impugned Judgment and Decree was passed by the Tribunal is confirmed.

10. The appellant-Insurance Company is directed to deposit the amount together with interest and cost as was directed by the Tribunal in the impugned Judgment and Decree, less already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the first respondent-claimant is permitted to withdraw the award amount together with interest and cost by filing suitable application before the Tribunal.

In the result, this civil miscellaneous appeal is dismissed. No cost. Consequent, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/true copy/

Sub Asst. Registrar

kkd/jen

To:

1.The Motor Accident Claims Tribunal
(Chief Judicial Magistrate's Court) Erode.

2.The Section Officer

VR Section

High Court

Madras

C.M.A.No.1773 of 2010 and

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