

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4069 of 2008

and

M.P. No.1 of 2008

United India Insurance Co. Ltd.,
Vadapalani Divisional Office,
Chander Plaza, I Floor
No.40-A, Arcod Road,
Saligramam, Chennai - 600 093.

..Appellant/3rd Respondent

vs.

1.B.Saravanan
2.A.Sakthivel
3.P.Mani

..1st Respondent/Claimant

..Respondents 2 & 3/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated in M.C.O.P.No.1419 of 2005, dated 13.12.2007, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Coimbatore.

For Appellant : Mr.E.Rajadurai
for M/s.N.Vijayaraghavan

For Respondents : Mr.N.Damodaran for R1
R2 & R3 - exparte

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 13.12.2007 passed by the Motor Accidents Claims Tribunal, (Principal Sub Court), Coimbatore in MCOP No.1419 of 2005.

2. The first respondent sustained injuries on 15.08.2004 as a result of an accident caused by a vehicle, owned by the second respondent and insured with the third respondent. He preferred a claim before the Motor Accidents Claims Tribunal (Principal Sub Court), Coimbatore in MCOP No.1419 of 2005 seeking compensation for the injuries sustained by him.

3. The Motor Accidents Claims Tribunal, (Principal Sub Court), Coimbatore under the impugned award directed the appellant to pay the first respondent / claimant a compensation of Rs.3,26,351/- together with interests and costs, as detailed hereunder :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Medical expenses	1,95,501
Transportation	1,000
Pain and suffering	50,000
Loss of income	20,850
Permanent Disability @ 59%	59000
Total	3,26,351

4. The appellant / Insurance Company has preferred this appeal questioning only its liability and they have not questioned the quantum of compensation awarded by the Tribunal. According to them, the Driver of the insured vehicle was not responsible for the cause of the accident and the Tribunal has erroneously not appreciated the sketch Ex.P5. According to them, as per Ex.P5, the bus which was coming in the wrong side of the road was alone responsible for the cause of the accident.

5. Heard Mr.E. Rajadurai, learned counsel for the appellant and Mr.N.Damodaran, learned counsel for the first respondent.

6.The contentions raised by the appellant in this appeal has been duly considered by the Tribunal under the impugned award.

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

8. Before the Tribunal, the first respondent / claimant has filed 22 documents which were marked as Exs.P1 to P22 and two witnesses were examined on his side viz., the first respondent / claimant himself as PW1 and the Doctor who examined him as PW2 . On the side of the appellant / Insurance company one document i.e. Insurance policy has been filed, which was marked as Ex.R1 and one witness was examined viz., their official as RW1.

9. The FIR (Ex.P1) has been registered only against the driver of the insured vehicle. Before the criminal Court, the Driver of the insured vehicle has also pleaded guilty and also paid the fine amount. No contra evidence has been produced by the appellant / Insurance Company before the Tribunal to

disprove the contention of the first respondent / claimant that only due to the rash and negligent driving by the Driver of the lorry (insured vehicle), the accident had happened. The adjudication of claim before the Motor Accidents Claims Tribunal is adjudicated based on preponderance of probability. In the case on hand, as seen from the materials and evidence available on record, it can be conclusively established that only due to the rash and negligent driving by the driver of the lorry (insured vehicle), the accident had happened. The Tribunal has rightly appreciated the evidence available on record and has rightly held the appellant / Insurance Company liable to pay the compensation to the first respondent.

10. For the foregoing reasons this Court does not find any infirmity in the findings of the Tribunal. Therefore, there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. 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 realization, less the amount, if any, already deposited to the credit of MCOP No.1419 of 2005, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Coimbatore 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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Principal Subordinate Judge, Coimbatore.

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

+1cc to Mr.N.Damodaran, Advocate Sr.No.30116

akm/20.04.21 /3p-4c/

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