

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.24.09.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.1394 of 2011 &
M.P.No.1 of 2011

The United India Insurance Company Ltd.,
Third Party Claims Cell,
No.38, Anna Salai,
Chennai - 2.

: Appellant/2nd Respondent

vs.

1.Sankar : 1st Respondent/Petitioner

2.Arulsamy : 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 30.09.2010 made in O.P.No.164 of 2006 of the file of the Motor Accident Claims Tribunal (Subordinate Judge), Ponneri.

For Appellant : Mr.D.Bhaskaran
For Respondents : R1 - Not known
R2 - Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Appellant Insurance Company challenging the Award dated 30.09.2010 passed by the Motor Accident Claims Tribunal (Subordinate Judge, Ponneri) in MCOP.No.164 of 2006.

2. The Tribunal under the impugned award directed the Appellant insurance company to pay the first respondent/claimant a compensation of Rs.1,37,500/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of earning	9,000/-
Transport to hospital	2,000/-
Extra nourishment	2,000/-
Damage to clothing and materials	500/-

Heads	Award Amount (Rs.)
Medical expenses	3,000/-
Attender charges	6,000/-
Pain and suffering	25,000/-
Permanent disability	90,000/-
Total	1,37,500/-

3. The Appellant/Insurance Company has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal under the impugned award is excessive. According to them, the first respondent/claimant has sustained only simple injuries as a result of an accident and no fracture was sustained by him as a result of the accident caused by a vehicle owned by the second respondent and insured with the Appellant.

4. Heard Mr.D.Bhaskaran, learned counsel for the Appellant. Since this Court is going to confirm the Award, notice to the respondents is dispensed with.

5. Before the Tribunal, the first respondent/claimant has filed seven documents which were marked as Ex.P1 to Ex.P7 and two witnesses were examined on his side, namely, the first respondent/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant/insurance company, neither any document was filed nor any witness examined, before the Tribunal.

6. In the claim petition, the first respondent/claimant has pleaded that he sustained fracture in his left and right hand as a result of the accident on 04.02.2006 caused by a vehicle owned by the second respondent and insured with the Appellant. The oral evidence adduced by the first respondent/claimant (PW1) as well as the Doctor's evidence (PW2) are consistent with the pleadings. However, the Appellant/Insurance company relying upon the accident register (Ex.P2), has disputed the same. According to them, as seen from the accident register (Ex.P2), the first respondent/claimant has sustained only simple injuries.

7. When an expert like, the Doctor (PW2) has confirmed that the first respondent/claimant has sustained fracture, that too, when the discharge summary issued by the Government Stanley Hospital, Chennai also reveals the nature of injuries sustained by the first respondent/claimant, the contention of the Appellant that the first respondent/claimant has sustained only

simple injuries was rightly rejected by the Tribunal under the impugned award. No contra evidence has been produced by the Appellant Insurance company to disprove the contention of the claimant that he has sustained fracture.

8. For the foregoing reasons, the quantum of compensation awarded by the Tribunal under the impugned award cannot be considered to be excessive as alleged by the Appellant.

Conclusion:

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant Insurance company is directed to deposit the amount awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.164 of 2006 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 along with accrued interest lying to the credit of MCOP.No.164 of 2006 to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To
The Sub Judge, Ponneri.

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

MG(CO)
CSR 23.04.2021

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