

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1696 of 2011

and

M.P.Nos.1 & 2 of 2011

(Through Video Conferencing)

National Insurance Company Ltd.,
Represented by its Branch Manager,
16, State Bank Road, Coimbatore. Appellant

Vs.

1.Kuppan

2.Selvaraj

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 11.06.2008 made in O.P.No.322 of 2007 on the file of the Motor Accidents Claims Tribunal (Additional District Judge/Fast Track Court No.V), Coimbatore at Thiruppur.

For Appellant : Mr.D.Bhaskaran

For R1 : No appearance

For R2 : Mr. Antony Jesus

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 11.06.2008 passed by the Motor Accident Claims Tribunal, Additional District Judge/Fast Track Court No. V, in M.C.O.P.No.322 of 2007.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,16,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of payment, to the 1st respondent/ claimant for injury suffered by him in a motor accident.

3. The accident is said to have taken place on 16.03.2007 at about 21.45 hours, when the 1st respondent/claimant was

travelling in the insured Van bearing registration No. TN-39-AD-7687 as a load man along with other persons. It was stated that the driver of the insured van drove it rashly and negligently and hit against a tree, as a result of which, the 1st respondent/claimant suffered grievous injuries. The 1st respondent/claimant therefore filed the above claim. The Tribunal after considering the evidence on record, has awarded the aforesaid compensation.

4. Aggrieved by the same, the Insurance Company has filed this Civil Miscellaneous Appeal on the ground that the Tribunal erred in awarding the aforesaid compensation towards a loss of income by applying multiplier 16. It is further submitted that though the permanent disability of the 1st respondent/claimant has been assessed as 39.02%, the Tribunal has reckoned as 30% for the purpose of determining the compensation.

5. I have considered the arguments advanced by the learned counsel fore the appellant. I have also perused the evidence on record.

6. The 1st respondent/claimant was working as a load man. The insured van driven by the driver met with an accident, as a result of which, the 1st respondent/claimant sustained grievous injuries. Under Section 147 of the Act, an employee of the owner of the insured vehicle in case of permanent disability or legal representatives of such employees in case of death, are to be covered by the Insurance. The nature of injury sustained by the 1st respondent/claimant indicates that there were injuries on his neck and all over the body and therefore, the 1st respondent/claimant would not be able to work due to the injury suffered.

7. Considering the nature of the injury suffered by the 1st respondent/claimant and his age at time of accident, in my view, the Tribunal has awarded just compensation of Rs.2,16,000/- to the 1st respondent/claimant. Therefore, I am inclined to uphold the award passed by Tribunal.

8. Therefore, if the appellant Insurance Company has not deposited the amount of compensation awarded by the Tribunal, it is directed to deposit the same together with interest as directed by the Tribunal, less if any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the 1st respondent/claimant is permitted to withdraw the same together with interest as directed by the Tribunal, less the amount already withdrawn if any, by filing suitable applications before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To:-

The Additional District Judge / Fast Track Court No.V
Motor Accidents Claims Tribunal,
Coimbatore at Thiruppur.

Copy To
The Section Officer,
VR Section,
High Court, Madras.

C.M.A.No.1696 of 2011
and M.P.Nos.1 & 2 of 2011

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