

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1779 of 2011
and
MP No.1 of 2011

The Oriental Insurance Co. Ltd.,
Kapadi Road,
Vellore.

...Appellant/4th Respondent

versus

1. A. Soundarajan ...1st Respondent/claimant
2. K.A. Hanifkan ...2nd Respondent/
1st Respondent
3. The Divisional Manager,
New India Assurance Company,
Officers Line,
Vellore. ...3rd Respondent/
2nd Respondent
4. Binoy Varkey ...4th Respondent/
3rd Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree passed in MCOP No.177 of 2004 on 29.12.2006 on the file of the Motor Accident Claims Tribunal (learned the Additional District Judge) of F.T.C. II, Ranipet, Vellore District.

For Appellant : Mr. J.Chandran
For Respondents : Mr.Tamil Thendral Arasu
for
M/s.P.Mani for R1
Not ready in notice reg. R2.
Mr.C.Ramesh Babu for R3 -
No appearance

R4 - Served - No appearance

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 29.12.2006 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court - II, Ranipet in MCOP No.177 of 2004.

2. The Appellant / Insurance Company has challenged the award both on the ground of its liability to pay the compensation as well as they have also challenged the quantum of compensation assessed by the Tribunal.

3. The Tribunal under the impugned award has held both the Jeeps one insured with the appellant and the other insured with the third respondent are equally responsible for the cause of the accident, which resulted in the injury sustained by the first respondent.

4. The details of the award passed by the Tribunal are as follows :-

Heads	Amount awarded by the Tribunal (Rs.)
Transport	5,000/-
Extra Nourishment	5,000/-
Medical expenses	30,000/-
Pain and Sufferings	25,000/-
Loss of income	10,000/-
Loss of earning power	1,20,000/-
Total	1,95,000/-

5. Heard Mr. J.Chandran, learned counsel for the appellant and Mr.Tamil Thendral, learned counsel for the first respondent.

6. Before the Tribunal, the claimant filed five documents, which were marked as Exs.P1 to P5 and three witnesses were examined viz., the claimant himself as PW1, the Doctor who examined him as PW2 and an Eyewitness to the accident as PW3. On the side of the appellant / Insurance Company, five documents were marked as Ex.R1 to Ex.R5 and two witnesses were examined viz., RW1 and RW2. The documents filed by the claimant before the Tribunal included the FIR (Ex.P1), Wound Certificate

(Ex.P.2), Bachelors Degree certificate (Ex.P3), Medical bills (Ex.P4) and Disability certificate (Ex.P5). The Doctor of the claimant has assessed the disability of the claimant at 60% as his right ankle got amputated as a result of the accident caused by the two vehicles, one insured with the appellant and the other insured with the third respondent. Insofar as the nature of injuries sustained by the first respondent / claimant is concerned, the appellant has not raised any dispute, as seen from the materials and evidence available on record. The only contention is that the compensation awarded by the Tribunal is excessive and it is also their contention that the Jeep, which is insured with them is not liable to compensate, since the Driver of the insured vehicle did not drive the vehicle in a rash and negligent manner.

7. FIR was registered against both the Jeeps, one bearing Registration No.KL-6A-6300 insured with the appellant and the other bearing Registration KL-6-9733 insured with the third respondent. As seen from the FIR, both the Jeeps were equally responsible for causing injury to the first respondent / claimant. The first respondent / claimant was travelling in the Jeep bearing No.KL-6A-6300 returning back from Sabarimala, when the collision between two Jeeps happened, which caused injuries to the first respondent / claimant. It has been the consistent stand of the first respondent / claimant, which is supported by the FIR that both the Jeeps were equally responsible for the cause of the accident. As seen from the oral and documentary evidence, available on record, the appellant / Insurance company has not let in any contra evidence to disprove the contention of the first respondent / claimant that both the vehicles were equally responsible for the cause of the accident. The Tribunal has considered the materials and evidence available on record and thereafter has passed the impugned award apportioning the liability at 50:50 (equally) between the respective insurance companies for both the vehicles. This Court does not find any infirmity in the said findings.

8. Insofar as the quantum of compensation is concerned, the compensation awarded by the Tribunal is a just one for the following reasons:

The first respondent / claimant was aged 30 years and a Teacher at the time of the accident, he was aged 30 years. He has also filed his Bachelors Degree certificate before the Tribunal, which has been marked as Ex.P3. The Tribunal has assessed his monthly income only at Rs.1,000/-. This being the case, the assessment of monthly income by the Tribunal is only a

meagre sum and therefore, there is no scope for interference by this Court. The loss of earning power assessed by the Tribunal calculated at Rs.1,20,000/- and the compensation awarded by the Tribunal under various heads viz., Transport, Extra nourishment, Pain & Sufferings and Loss of income as indicated earlier are also a reasonable sum and therefore, there is no scope for interference as regards those heads of compensation also.

9. For the foregoing reasons, this Court is of the view that there is no merit in this appeal and the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant/Insurance Company is directed to deposit the entire award amount as per the award of the Tribunal along with interest and costs after deducting the amount, if any already deposited, to the credit of MCOP.No.177 of 2004 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 amount to the bank account of the claimant through RTGS within a period of two weeks thereafter.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi2

To

1. The Motor Accidents Claims Tribunal,
Additional District Judge, Fast Track Court - II, Ranipet
vellore District

2. The Section Officer,
V.R. Section, High Court of Madras, Chennai - 104.

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