

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2167 of 2011  
& M.P.No.1 of 2011

(Through Video Conferencing)

The National Insurance Co., Ltd.,  
Pondicherry.

.. Appellant/2<sup>nd</sup> Respondent

.vs.

1.Rajendran  
2.K.Ramakrishnan (died)  
3. Aanadha Kumar  
(3<sup>rd</sup> respondent set exparte before  
the Tribunal)

...1<sup>st</sup> Respondent/Claimant

..2 & 3<sup>rd</sup> Respondents/  
1<sup>st</sup> & 3<sup>rd</sup> Respondents

Prayer.: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 27.04.2006 made in M.C.O.P.No.799 of 1996 on the file of the Motor Accident Claims Tribunal ( Sub Court) Cuddalore.

For Appellant : Mr. J.Chandran

J U D G M E N T

The Insurance company is the appellant in this appeal. It is aggrieved by the impugned Judgment and decree dated 27.04.2006 passed by the Motor Accidents Claims Tribunal, ( Sub Court) Cuddalore in M.C.O.P No.799 of 1996 (hereinafter referred to as the Tribunal)

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,68,800/- to the 1<sup>st</sup> respondent/claimant together with interest at 7.5% per annum from the date of claim petition till the date of deposit,

3. On 04.02.1995 at about 3.00 p.m while the 1<sup>st</sup> respondent was standing on the opposite side of the 2<sup>nd</sup> respondent's house,

when a tractor bearing Reg.No.TN-31-5468 belonging to the 2<sup>nd</sup> respondent and insured with the appellant-Insurance Company allegedly driven by its driver in a rash and negligent manner knocked from the back side of the 1<sup>st</sup> respondent, as a result of which, the 1<sup>st</sup> respondent fell down and the wheel of the tractor ran over his left leg and he sustained injuries in his left leg and all over his body.

4. Before the Tribunal, the appellant-Insurance Company stated that the driver of the insured vehicle was proceeding carefully and crossing the road and followed the traffic rules and that the accident occurred only due to negligence the 1<sup>st</sup> respondent-claimant.

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

6. From the materials available on record, it is seen that the Tribunal has held that the accident has occurred only due to rash and negligent driving of the insured tractor by its driver belonging to the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent had sustained grievous injury and he was unable to walk. Under these circumstances, the first respondent had restricted a claim of Rs.4,00,000/- before the Tribunal.

7. Considering the above, the nature of injury suffered by the 1<sup>st</sup> respondent, in my view, the Tribunal has correctly considered 35% disability and awarded a sum of Rs.1,42,000/- towards loss of income. It appears to be reasonable and therefore, I do not find any reasons to interfere with the findings given by the Tribunal in the impugned Judgment and Decree. The balance amount awarded under the conventional heads also appear to be reasonable.

8. In the light of the above, the impugned Judgment and decree passed by the Tribunal is upheld and the amount awarded the compensation is confirmed. Therefore, this appeal filed by the Insurance Company is liable to be dismissed.

9. Therefore, the appellant-Insurance Company is directed to deposit the award amount 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.

10. On such deposit, the 1<sup>st</sup> respondent is permitted to withdraw the award amount together with interest accrued thereon, less if any amount already withdrawn, by filing suitable application before the Tribunal.

11. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

kkd

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accidents Claims Tribunal,  
(Sub Court) Cuddalore.

2.The Section Officer,  
V.R.Section, High Court, Madras.

+1cc to Mr.J.Chandran, Advocate, S.R.No.28758

C.M.A.No.2167 of 2011  
and M.P.No.1 of 2011

CP(CO)  
CB(21/04/2021)

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