IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2384 of 2011
and
M.P.No.1 of 2011

National Insurance Company Limited,
Athur. .. Appellant/3rd Respondent

Vs.

1.Mayakannan
2.Velu .. Respondent/ Claimant
3.Kanagam .. Respondents/Respondents 1 & 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.09.2007 made in M.C.O.P.No.3 of 2002 on the file of Motor Accident Claims Tribunal, Subordinate Court, Athur.

For Appellant: Mr.E.Rajadurai for
Mr.B.Raghavan

For R1 : Mr.P.Jagadeesan
For R2 & R3 : Notice served

JUDGMENT

The National Insurance Company Limited, the third respondent in MCOP.No.3 of 2002 on the file of the Motor Accidents Claims Tribunal/Subordinate Court,Athur, has filed the present appeal questioning the liability and the quantum of compensation awarded by the Tribunal. The claimant filed the above said claim petition under Section 166 (A) of the Motor Vehicles Act, 1988 seeking compensation of Rs.4,00,000/- for the injuries sustained by him in a road accident that took place on 21.02.2001.

2. On 21.02.2001 at about 19.45 hours, nearer to Ammaiyakaram Bridge, the second respondent herein/the driver of the lorry bearing Regn.No.TNR-6363, which is belonging to the third respondent herein, driven the lorry in a rash and negligent manner. The claimant was sitting nearer to the driver sheet. At one point of time, the driver lost his control and the

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lorry met with an accident, due to which, the claimant sustained grievous injuries all over the body. According to the claimant, the rash and negligent driving of the driver of the lorry was the cause of the accident and that since the said lorry was insured with the present appellant, both the owner and the insurer of the lorry are jointly and severally liable to pay compensation to them.

3. The present appellant /National Insurance Company Limited, contested the claim petition on all the grounds available to the insured. The learned Motor Accidents Claims Tribunal / Subordinate Judge, Athur, after analysing the evidence on record, awarded a compensation of Rs.1,50,000/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, the National Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials available on record.

5. From the materials available on record, it is seen that the first respondent has deposed the manner of accident by which the accident took place. It clearly shows that if the driver has carefully driven the lorry, the accident would not have taken place. The Tribunal considering the entire materials on record held that the accident occurred due to the rash and negligent driving of the lorry driver. The appellant has not let in any evidence to disprove the contention of the first respondent. Considering the nature of injuries, the Tribunal has awarded the compensation, which is not excessive. Hence, there is no error warranting interference by this Court.

6. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The compensation awarded by the Tribunal is confirmed hereby.

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(iii) The appellant/National Insurance Company Limited is directed to deposit the compensation awarded by the Tribunal i.e., Rs.1,50,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.3 of 2002 on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Athur, within a period of six weeks from the date of receipt of a copy of this order.

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(v) On such deposit being made, the first respondent/claimant is at liberty to withdraw the same as per the orders passed by the Tribunal, after following due process of law.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Motor Accident Claims Tribunal,
Subordinate Judge,
Athur.

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

+1 cc to Mr.N.Vijayaraghvan, Advocate Sr.No. 9626
+1 cc to Mr.P.Jagadeesan ,Advocate Sr.No. 9900

C.M.A.No.2384 of 2011
and
M.P.No.1 of 2011

RSV(CO)
RMP(29/04/2021)

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