

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1179 of 2016

A.V.Raghu

.. Appellant/Petitioner

Vs.

1.B.Uma Maheswaran

2.B.Sooriyanarayanan
(exparte before the Tribunal)

3.Royal Sundaram Alliance
Insurance Co.Ltd.,
No.46,Whites Road,
Chennai - 14.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.01.2016 passed in M.C.O.P.No.3101 of 2005 on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai.

For Appellant : Mr.Ramya V.Rao

For R3 : Ms.Elveera Ravindran

For R2 : No Appearance

J U D G M E N T

Challenge in this civil miscellaneous appeal is to the judgment and decree dated 19.01.2016 passed in M.C.O.P.No.3101 of 2005 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

2. The appellant herein is the claimant and the appeal is preferred for enhancement of compensation awarded by the Tribunal.

3. The Tribunal, after considering the nature of injuries sustained by the claimant, arrived at a conclusion that the

third respondent/insurance company is liable to pay compensation. The coverage of policy is also established before the Tribunal.

4. The accident occurred on 26.07.2004 around 17.30 hours at S.N.Odai Street, Kancheepuram. The claimant has stated in the claim petition that, due to the accident, he sustained severe injury on the forehead and not able to do any work for three months. This being the factum, the Tribunal considered the documents as well the medical records produced by the claimant with reference to the disability and quantum and ascertained the disability as 20 % and accordingly granted Rs.3,000/- per percentage. Considering the age of the claimant and the nature of injuries, the assessment was made and the Tribunal has awarded Rs.50,000/- towards pain and suffering, Rs.5,000/- towards extra nourishment, Rs.5,000/- towards transport to hospital, Rs.1,000/- towards damages to clothes, Rs.1,500/- towards attender charges, Rs.15,000/- towards medical expenses, Rs.5,000/- towards future medical expenses, Rs.13,000/- towards loss of income and Rs.10,000/- towards loss of amenities.

5. As far as liability is concerned, it is brought to the notice of this Court that the first respondent before the Tribunal is the driver of the accident vehicle, second respondent before the Tribunal is the owner of the accident vehicle and third respondent before the Tribunal is the insurer of the accident vehicle. Though the first and second respondents before the Tribunal remained ex parte, the third respondent before the Tribunal contested the case relying upon Ex-R1. The second respondent before the Tribunal, who was the pillion rider in the vehicle which met with an accident on 26.07.2004, also suffered injuries, due to the accident. The second respondent filed a claim petition in M.C.O.P.No.137 of 2005 before the Tribunal and the Tribunal fixed the liability as 50:50.

6. With reference to the very same accident, liability had already been arrived as 50:50, in the present case also, the Tribunal has fixed the same liability and therefore, this Court does not find any perversity or infirmity in the liability fixed by the Tribunal.

7. As far as compensation is concerned, the Tribunal considered all the aspects including the nature of injuries sustained by the claimant and this Court is not inclined to interfere with the findings of the Tribunal, as the compensation awarded by the Tribunal is just and fair.

8. The third respondent is directed to deposit 50% of award of compensation with accrued interest, if not deposited

earlier, within six weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the said amount by filing an appropriate application and the payments are to be made only through RTGS.

Resultantly, the judgment and decree dated 19.01.2016 passed in M.C.O.P.No.3101 of 2005 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai, stands confirmed and C.M.A.No.1179 of 2016 stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judge,
Motor Accidents Claims Tribunal,
(IV Court of Small Causes),
Chennai.
 2. The Section Officer,
V.R Section,
Madras High Court,
Chennai - 600 104.
- +1 cc to Mrs.Elaveera Ravindran, Advocate Sr.No. 20106

C.M.A.No.1179 of 2016

PP (CO)
RMP (27/01/2021)

सत्यमेव जयते

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