

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3690 of 2012
and
M.P.1 of 2012

The Branch manager
The New India Assurance Co.Ltd.,
Office No.7. Ramalinga Madalaya,
Gugai, Salem- 636 006. ... Appellant/2nd Respondent

Vs.

1.Vasudevan

2.C.N.Annadurai ... Respondents/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.03.2012 made in M.A.C.T.O.P.No.211 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Rasipuram.

For Appellant : Mr.M.K.Krishnamoorthy

For R1 : Mr.Ma.P.Thangavel

For R2 : No Appearance

J U D G M E N T

The appellant herein is the second respondent in MCOP.No.211 of 2008 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Rasipuram. The 1st respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident that took place on 26.12.2006.

2. The case of the claimant is that on 26.12.2006 at about 06.45 PM, the claimant was travelling in his friend's auto for trial running. When the said Auto bearing Registration No.TN-30-K-3350 was coming from Rasipuram to Andagalore gate main road, near Mariamman Koil back side gate, suddenly the auto's engine

got raised and in an uncontrolled and unbalanced manner, the auto was automatically running speed. Due to the above incident, the driver of the auto cannot control the auto and suddenly dashed against one Bajaj Sunny Vehicle bearing Registration No.TN 33 M 6806, due to which, the claimant got severe injury in his right leg ankle and his bone was broken. He also sustained fore head and grievous injuries all over the body.

3. According to the claimant, the rash and negligent riding of the rider of the Bajaj sunny vehicle bearing Registration No.TN 33 M 6806 belonging to the second respondent, was the cause of the accident and that since the said vehicle was insured with the appellant herein / New India Assurance Company Limited, the owner of the vehicle and the insurer are jointly and severally liable to pay compensation.

4. The second respondent, owner of the two wheeler, and the appellant/ The New India Assurance Company Limited contested the claim petition on all the grounds available. The Motor Accidents Claims Tribunal, Rasipuram, after analysing the evidence on record, awarded a compensation of Rs.1,34,000/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved by the order passed by the Tribunal, the New India Assurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.M.K.Krishnamoorthy, learned counsel appearing for the appellant contended that the Bajaj Sunny Vehicle bearing Registration No.TN 33 M 6806 was wrongly implicated in the instant case. Hence, he prayed to allow this appeal.

6.Mr.Ma.P.Thangavel, learned counsel for the first respondent would contend that the accident had happened due to the rash and negligent driving of the second respondent, who violated the traffic rules.

7. It is pertinent to point out that FIR was lodged by the Rasipuram Police against the second respondent for the offence under Section 279 and 337 of IPC in Crime No.1864 of 2006 and after full investigation, the Inspector of Police, Rasipuram Police Station, laid a charge sheet against the second respondent. In fact, the Tribunal had dealt with this aspect in extent and had clearly held that the rider of the Bajaj Sunny Vehicle was the reason of the accident and therefore, the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation. In the facts and circumstances of the present case, the orders passed by the Tribunal are

perfectly in order and I do not see any reason to interfere with the same. The award passed by the Tribunal is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)
1	Disability	50,000/-
2	Loss of income	20,000/-
3	Transportation	5,000/-
4	Nutrition	10,000/-
5	Medical Expenses	9,000/-
6	Pain and Sufferings	40,000/-
Total		1,34,000/-

8. As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel appearing for the appellant and even no cross objection/appeal was filed by the claimant. A perusal of the award also shows that it is not on the higher side and in the facts and circumstances, the appeal fails.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the order passed by the Tribunal is upheld. The appellant/The New India Assurance Company Limited as well as the second respondent are directed to deposit the compensation awarded by the Tribunal i.e., Rs.1,34,000/- (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 MACTOP.No.211 of 2008 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Rasipuram, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent / claimant is at liberty to withdraw the same, after following the due process of law. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

sbn

To

1.Motor Accident Claims Tribunal
Subordinate Court,
Rasipuram.

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

+1 cc to Mr.Ma.Pa.Thangavel Advocate sr4232

+1 cc to Mr.M.Krishnamoorthy Advocate sr4462

C.M.A.No.3690 of 2012

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