

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.725 of 2013
and MP.No.1 of 2013

M/s.National Insurance Co. Ltd.,
Rep. By its Divisional Manager,
D.O.No.7, No.50, Janapath,
New Delhi - 110 001.

... Appellant/2nd Respondent

...Vs...

1. Shanmugam
2. T.Raja

...1st Respondent/Petitioner
...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 07.04.2011 made in MCOP. No.323 of 2007 on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge) Krishnagiri District.

For Appellant : Mr.J.Chandran

Not ready in notice regarding R1 and R2

JUDGMENT

(This Appeal was taken up for hearing through
Video Conferencing)

This appeal has been filed by the Insurance Company challenging the impugned award dated 07.04.2011 passed by the Motor Accident Claims Tribunal (Principal Subordinate Judge), Krishnagiri District in MCOP.No.323 of 2007.

2. The primary ground raised by the appellant/Insurance Company in this appeal is that the quantum of compensation awarded by the Tribunal to the first respondent/claimant is excessive.

3. The first respondent sustained injuries as a result of an accident caused by a motor-cycle viz., Hero Honda bearing registration No. TN 24 W 7066 owned by the second respondent and insured with the appellant. The first respondent/claimant has preferred a claim before the Motor Accidents Claims Tribunal, Krishnagiri in MCOP No.323 of 2007 seeking compensation of Rs.6,00,000/- for the injuries sustained by him, as a result of the accident, which happened on 23.04.2007.

4. The Tribunal, under the impugned award, has held that the driver of the insured vehicle is liable for the cause of the accident and directed the appellant/Insurance Company to pay a compensation of Rs.88,000/- together with interest and costs to the first respondent/injured claimant for the injuries sustained by him as a result of the accident.

5. The details of the award passed by the Tribunal in favour of the claimant are as follows:

Head	Award passed by the Tribunal (Rs.)
Permanent disability	40,000/-
Transportation & Extra nourishment	5,000/-
Pain and suffering	10,000/-
Medical Assistance	2,000/-
Medical expenses	30,947/-
Total	87,947/-
Rounded off	88,000/-

6. Heard Mr.J.Chandran, learned counsel for the appellant / Insurance Company and there is no representation on behalf of the first and second respondents.

7. Before the Tribunal, the first respondent/injured claimant has filed eight documents, which were marked as Ex.A1 to Ex.A8 and two witnesses were examined on his side, namely, PW1- Shanmugam, the claimant himself and PW2 - Dr.D.V.Gandhi, the Doctor, who examined him. On the side of the appellant/Insurance Company, four documents were filed which were marked as Ex.B1 to Ex.B4 and two witnesses were examined viz., RW1 and RW2.

8. The first respondent/claimant has sustained the following injuries as a result of the accident, which occurred on 23.04.2007:-

- Fracture of right leg;
- Laceration over right hand; and
- Contusions and injury over right side flank.

9. With regard to the adverse finding of negligence by the Tribunal as against the driver of the insured vehicle, the appellant/insurance company has not raised any ground in this appeal. The only ground raised by the appellant/insurance company is that the quantum of compensation awarded by the Tribunal is excessive.

10. Before the Tribunal, the first respondent/claimant, in his claim petition, has claimed that he was working as a Master in Dhabha Hotel, aged 38 years, earning Rs.200/- per day, at the time of the accident. He had claimed a compensation of Rs.6,00,000/- from the appellant/insurance company. Before the Tribunal, the nature of injuries sustained by the first respondent/claimant has not been disputed by the appellant/insurance company as seen from the evidence available on record.

11. This Court has also perused and examined the materials and evidence available on record before the the Tribunal.

12. The Doctor, who examined the first respondent/claimant has assessed their disability at 40% and the Tribunal has assessed the disability compensation at Rs.40,000/- calculated at Rs.1000/- per percentage of disability. The Tribunal has awarded a sum of Rs.5,000/- towards transportation and extra nourishment, a sum of Rs.10,000/- towards pain and suffering, another sum of Rs.2,000/- towards medical assistance and another sum of Rs.30,947/- towards medical expenses, which was supported by the medical bills and the same was marked as Ex.A4 before the Tribunal. In all, the Tribunal has awarded a total compensation of Rs.87,947/- rounded off Rs.88,000/- from the appellant/insurance company.

13. Considering the year of the accident and the nature of avocation and injuries sustained by the first respondent/claimant, this Court does not find any infirmity in this appeal.

Conclusion:

14. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed.

15. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited, to the credit of MCOP.No.323 of 2007, 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 first respondent/claimant through RTGS within a period of two weeks thereafter.

16. In the result, this appeal is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
(Principal Subordinate Judge) Krishnagiri.

Copy to : The Section Officer
V.R.Section, High Court of Madras.

AKM/20.04.21/4P- 3C/

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