

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.3583 of 2019

And

C.M.P.No.20356 of 2019

United India Insurance Co. Ltd.,
29C, I Floor, C.N.A. Road,
Khaderpettai,
Vaniyambadi.

.. Appellant/2nd Respondent

vs.

1.Ramasamy

...1st Respondent/Claimant

2.Senthamizh Selvan

..2nd Respondent/1st Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.07.2018 passed in M.C.O.P. No.705 of 2010 on the file of the learned Sub Judge, Sub Court-cum-Motor Accidents Claims Tribunal, Sankagiri.

For Appellant : Mr.A.Dhiraviyanathan

For Respondent-1: Mr.T.S.Arthanareeswaran

For Respondent-2 : No Appearance

J U D G M E N T

The appellant-United India Insurance Company Limited has preferred the present Civil Miscellaneous Appeal against the judgment and decree dated 06.07.2018 passed by the learned Sub Judge, Sub Court-cum-Motor Accidents Claims Tribunal, Sankagiri in M.C.O.P. No.705 of 2010.

2. The accident occurred on 01.09.2010 at about 09.00 A.M. near Elayampalayam Bus Stop opposite to Tiruchengode to Namakkal Main Road in Tiruchengode Taluk. The Tiruchengode Rural Police Station registered a case in Crime No.385 of 2010 under

Sections 279 and 338 IPC.

3. The claim petition was filed by the claimant and the Tribunal adjudicated the issues with reference to the documents as well as the evidences produced by the respective parties.

4. The compensation of Rs.5 lakhs was awarded by the Tribunal against which the present Civil Miscellaneous Appeal has been filed by the United India Insurance Company Limited, mainly on the ground that the award is excess and exorbitant. The quantum of compensation granted by the Tribunal is not in commensuration with the gravity of the grievous injuries sustained by the claimant on account of the accident. Thus, the award of the Tribunal is to be set aside.

5. The learned counsel appearing on behalf of the appellant also contended that the negligence on the part of the injured also has not been considered by the Tribunal.

6. It is brought to the notice of this Court that against the very same award passed by the Tribunal in MCOP No.705 of 2010 dated 06.07.2018, the first respondent in the present Civil Miscellaneous Appeal, namely, Mr.Ramasamy filed an appeal before this Court in CMA No.2582 of 2019 and this Court dismissed the said appeal on 18.06.2019. This Court considered all the evidences as well as the findings of the Tribunal and arrived a conclusion that no interference is called for and accordingly, confirmed the award by dismissing the same. Thus, the compensation of Rs.5 lakhs was already confirmed by this Court in CMA No.2582 of 2019 on 18.06.2019 and therefore, there is no other reason whatsoever to consider the grounds raised by the appellant-Insurance Company in the present Civil Miscellaneous Appeal.

7. Accordingly, the judgment and decree dated 06.07.2018 passed by the learned Sub Judge, Sub Court-cum-Motor Accidents Claims Tribunal, Sankagiri in M.C.O.P. No.705 of 2010 stands confirmed and consequently, the C.M.A.No.3583 of 2019 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinge Judge,
Motor Accidents Claims Tribunal,
Sankagiri.

2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.A.Dhiraviyanathan, Advocate, S.R.No.26493

CMA No.3583 of 2019

NBA (CO)
CB(22/04/2021)