

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1033 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

United India Insurance Company Limited,
Chengalpattu. ... Appellant/2nd Respondent

Vs.

1. Ravi ...1st Respondent/Petitioner
2. Sampath ...2ndRespondent/1st Respondent

(2nd respondent ex parte before Lower Court
and hence notice may be dispensed with)

Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988 against the Judgment and Decree in
M.C.O.P.No.97 of 2001, dated 25.02.2005, on the file of the
Motor Accidents Claims Tribunal, Subordinate Court, Athur.

For Appellant : Ms.Harini
for Mr.N.Vijayaraghavan

For Respondents

For R1 : Not ready in notice

For R2 : set exparte

JUDGMENT

The Insurance Company is the appellant in this appeal and is
aggrieved by the impugned Judgment and Decree dated 25.02.2005
passed by the Motor Accidents Claims Tribunal (Subordinate
Court, Athur) in M.C.O.P.No.97 of 2001.

2. Though the appeal pertains to the year 2010, till date
there is no service of notice of the respondents has remained
unserved. Be that as it may, the case taken up for final
hearing as no adverse order is proposed to be passed against the
respondents.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,75,000/- as compensation together with interest at 9% per annum from 29.01.2001 to 25.02.2005, to the 1st respondent/claimant.

4. The Tribunal has awarded the aforesaid compensation under the following heads:-

Heads of Compensation	Amount Awarded by the Tribunal
Loss of Income	Rs.60,000/-
Permanent Disability	Rs.75,000/-
Transportation	Rs.15,000/-
Pain & Suffering	Rs.35,000/-
Loss of amenities	Rs.25,000/-
Future medical expenses	Rs.25,000/-
Loss of earning	Rs.50,000/-
Total	Rs.2,85,000/- *

* The decree indicates a sum of Rs.2,75,000/-.

5. In this appeal, the Insurance Company has questioned liability and the quantum of compensation awarded by the Tribunal. As far as liability is concerned, it is stated that the insurance policy is ante-dated and is also fabricated and therefore, the Tribunal ought not to have fastened the liability on appellant to pay compensation to the first respondent/claimant. As far as the quantum is concerned, it is submitted that the amount of Rs.2,75,000/- awarded towards compensation to the first respondent/claimant was excessive.

6. As far as liability is concerned, this is a new ground which is taken for the first time before this Court. This is not only contrary to the pleadings before the Tribunal but also the oral arguments advanced before the Tribunal. Therefore, considering these facts, I find no merits in the present appeal as far as the liability is concerned.

7. As far as the quantum of compensation is concerned, it is noticed that the first respondent/claimant had sustained bleeding injuries at his right parietal region, oozing of blood from the left ear, left hand elbow, right leg over the right tibia and also sustained grievous fractures.

8. The aforesaid amount awarded by the Tribunal appears to be a just compensation. I do not find any infirmity in the impugned Judgment and Decree of the Tribunal to interfere with

the same in this appeal.

9. If the appellant Insurance Company has not deposited the award amount of compensation as decreed by the Tribunal, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of the copy of this Judgment.

10. On such deposit, the first respondent/claimant is entitled to withdraw his respective share together with interest as directed by the Tribunal, by filing suitable application before Tribunal.

11. In the light of the above, the impugned Judgment and Decree passed by the Tribunal is confirmed and the appeal filed by the Insurance Company is dismissed. No cost. Consequently, connected Miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To: The Motor Accidents Claims Tribunal,
Subordinate Judge, Athur.

copy to

The Section Officer,
VR Section
High Court,
Madras

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