

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2286 of 2014

and

M.P.No.1 of 2014

The Branch Manager,
M/s.New India Assurance Co. Ltd.,
No.110, Gandhi Road, Arni. Appellant/Respondent II

Vs.

1. Tmt.Vijayakumari,Respondent I/Petitioner
2. Tmt.S.Chitra Respondent II/ Respondent I

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to set aside the Judgment and Decree dated 28.08.2012 made in M.C.O.P.No.29 of 2008 on the file of the Learned Motor Accidents Claims Tribunal, Arani, Tiruvannamalai District.

For Appellant : Mr.J.Chandran
For Respondents: Served
No Appearance

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 28.08.2012 made in M.C.O.P.No.29 of 2008 on the file of the Learned Motor Accidents Claims Tribunal, Arani, Tiruvannamalai District.

2. The case of the appellant is that on 01.06.2007 at 1.30 p.m., while the first respondent was going to a festival of Chinnaputhur Mariyamman Temple in the second respondent's vehicle bearing Registration No.TN-25-V-1602, the vehicle was capsized on the right of the road near Puthur Koot Road as it was driven in a rash and negligent manner by the second respondent. Due to the impact, the first respondent and other passengers had sustained grievous injuries. Immediately, they were taken to Vellore Government College Hospital and admitted as inpatient for treatment, and thereafter, they were shifted in

a private hospital at Tambaram for further treatment. At the time of accident, the first respondent was aged 40, and before the accident, she was doing a Cooly work and was earning Rs.3,000/- per month. Due to the injuries sustained in the accident, she could not lift his hand and work as before. Hence she filed a petition before the Learned Motor Accidents Claims Tribunal, Arani, Tiruvannamalai District, claiming Rs.25,000/- as compensation from the appellant and the second respondent as they are the owner and insurer of the vehicle involved in the accident.

3. Denying the allegations, the appellant insurance company filed a counter affidavit stating that the second respondent did not inform them about the alleged accident. Hence they are not liable to pay any compensation to the first respondent. Further, it has been stated that the second respondent was not having valid driving licence, R.C., Permit and F.C. at the time of accident and the first respondent has to strictly prove that the second respondent was having the said documents at the time of accident. Moreover, it has been stated that the alleged age, income and nature of injuries are not true and the amount of compensation claimed is baseless and exorbitant.

4. During the trial before the Tribunal, on the side of the first respondent, the first respondent herself was examined as PW1 and marked certain documents as Exs.P1 to P3. On the side of the appellant and the second respondent, one Thiru.Mahalingam was examined as RW1 and the policy copy was marked as Ex.R1.

5. The Learned Motor Accidents Claims Tribunal, Arani, Tiruvannamalai District, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the claimant and awarded Rs.12,000/- as compensation to the claimant. Aggrieved by the same, the appellant insurance company has filed this appeal before this Court.

6. Heard the learned counsel for the appellant and the learned counsel for the respondents, and perused the materials available on record.

7. On perusal of the award dated 28.08.2012 passed by the Learned Motor Accidents Claims Tribunal, Arani, Tiruvannamalai District, it is observed that the first respondent in order to prove that the second respondent was the cause for the alleged accident marked FIR copy as Ex.P1 which was filed against the second respondent, but the appellant and the second respondent have not marked any document on their side, and therefore, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the second respondent. Further, it is observed that the first

respondent has marked Exs.P2 & P3 i.e. the Discharge summary and Wound certificate to prove the injuries sustained in the accident and the treatment taken in the hospital, and on perusal of the same, the Tribunal has found that the first respondent had sustained only simple injuries and therefore has awarded Rs.12,000/- as compensation to him.

8. The compensation awarded by the Tribunal is just and fair and this Court is not inclined to interfere with the same.

9. Accordingly, the appellant and the second respondent are directed to deposit the said amount of Rs.12,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the first respondent/claimant is permitted to withdraw the same by filing a formal petition before the concerned Court, less the amount if any, already withdrawn.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1. The Learned Motor Accidents Claims Tribunal,
Arani, Tiruvannamalai District.

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

+1 CC to Mr.J.Chandran, Advocate sr 4224.

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C.M.A.No.2286 of 2014
and
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BP(CO)
SP(10/09/2020)