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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2471 of 2014

J. Rajesh ... Appellant/Petitioner

Vs.

1.S. Senthilkumar

2.J. Sidharth

3.ICICI Lombard General Insurance Co. Ltd.,
Kannankeri Estate, 3rd Floor,
Shanmugam Road, Marine Drive,
Cochin.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.10.2009, made in M.C.O.P. No.564 of 2007, on the file of the III Additional Sub Court, (Motor Accident Claims Tribunal) Coimbatore.

For Appellant : Mr. Ma.P. Thangavel

For Respondents: Mrs. R. Sree Vidhya (For R3)

R1 : Not ready in Notice

R2 : Not ready in Notice

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed against the award dated 21.10.2009, made in M.C.O.P. No.564 of 2007, on the file of the III Additional Sub Court, (Motor Accident Claims Tribunal) Coimbatore.

2.The appellant filed M.C.O.P. No.564 of 2007, on the file of the III Additional Sub Court, (Motor Accident Claims Tribunal) Coimbatore, claiming a sum of Rs.5,00,000/- as



compensation for the injuries sustained by him in the accident that took place on 25.09.2006.

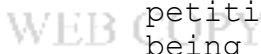
3. According to the appellant, on the date of accident at about 9.45 am, when he was riding his Hero Honda Motorcycle bearing Registration No. TN-38-AF-1643, in Sakthi Road, while crossing Deepa Fancy Store, the 1st respondent, driver of the Indica Car bearing Registration No. KL-07-AS-6219, belonging to the 2nd respondent, drove the same in a rash and negligent manner, and dashed against the Motorcycle and caused accident. The accident occurred due to rash and negligent driving by the 1st respondent, driver of the Indica Car. In the accident the appellant suffered multiple injuries and fracture. For the injuries suffered by him, he has filed the claim petition, claiming compensation against the respondents as driver, owner and insurer of the said Indica Car.

4. The respondents 1 and 2 remained exparte before the Tribunal.

5. The 3rd respondent - Insurance Company filed counter statement and denied all the averments made by the appellant. The 3rd respondent denied the manner of the accident. According to the 3rd respondent, the 1st respondent did not possess valid driving license to drive the offending vehicle and Indica Car did not have valid insurance coverage and the same was not insured with them, at the time of accident. Hence, the 3rd respondent is not liable to indemnify the 2nd respondent for the injured in the accident. The accident did not occur due to rash and negligent driving by the 1st respondent/driver of the Indica Car. In any event, the appellant has to prove his age, income and avocation, injuries sustained in the accident, treatment taken for the same, to claim compensation. The total compensation claimed by the appellant is excessive and prayed for dismissal of the claim petition.

6. Before the Tribunal, the appellant examined himself as P.W.1 and examined Doctor as P.W.2 and marked 17 documents as Exs.P1 to P17. The respondents examined two witnesses as R.W.1 and R.W.2 and marked 6 documents as Exs.R1 to R6.

7. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent, driver of the Indica Car belonging to the 2nd respondent and directed the 2nd respondent to pay a sum of Rs.1,05,346/- as compensation to the appellant and dismissed the claim petition as against the 3rd respondent-Insurance Company for violation of policy condition by the 2nd respondent.





14.As far as the quantum of compensation is concerned, the Tribunal considering the nature of injuries, disability suffered by the appellant and treatment taken, has awarded compensation which are not meagre, warranting no interference by this Court.

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the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.564 of 2007. On such deposit, the appellant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa
To

The III Additional Subordinate Judge,
(Motor Accident Claims Tribunal),
Coimbatore.

Copy to

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

+1cc to Mr.Ma.P.Thangavel, Advocate Sr.38517
+1cc to Mrs.R.Sreevidhya, Advocate Sr.38754

C.M.A.No.2471 of 2014

gj[col]
srg 27/08/2021