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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1686 of 2020

and

C.M.P.No.12417 of 2020

Iffco-Tokio General Insurance Co. Ltd.,
24, LIC Colony, Hotel Vasantham Road,
Alagapuram, Salem - 636004.

.. Appellant/2nd
Respondent

Vs.

1. M.Senthilraj

.. 1st Respondent/
Petitioner

2. R.Jagadeesan

.. 2nd Respondent/
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 27.11.2019 made in M.C.O.P.No.1060 of 2017, on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Court No.2, Salem.

For Appellant : Mr.N.Somasundaar

J U D G M E N T

The appeal has been filed by the Insurance Company challenging the Award passed by the Motor Accident Claims Tribunal / Special Subordinate Judge, Court No.2, Salem in M.C.O.P.No.1060 of 2017, dated 27.11.2019.

2. On 27.11.2016, at about 07.15 p.m. the first respondent/claimant was travelling as a pillion rider in a two wheeler driven by the second respondent herein. The second respondent drove the vehicle in a rash and negligent manner and dashed against a lady, who was walking along the road, in which, the first respondent/claimant fell down and sustained injuries. Hence, claiming compensation of Rs.25,00,000/-, he filed the claim petition.

3. The appellant insurance company contested the claim



petition stating that the accident had taken place due to the negligent driving of the second respondent herein and he does not possess a driving licence and hence the appellant/insurance company is not liable to pay compensation.

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4. In order to prove the case, the claimant examined himself as P.W.1 and marked as many as nine documents as Exs.P1 to P9. On the side of the respondents one Special Sub Inspector of Police was examined as R.W.1 and the FIR has been marked as Ex.R1.

5. The Tribunal, after considering the evidence, came to the conclusion that the accident had taken place due to the rash and negligent driving of the second respondent herein. So far as the liability of the insurance company is concerned, the Tribunal has held that there is no evidence to show that the owner of the vehicle has violated any of the terms and conditions of the insurance policy and there is no material to show that the second respondent did not possess a driving licence and therefore held that the appellant/insurance company is liable to pay the compensation.

6. So far as the quantum of compensation is concerned, in the said accident, the first respondent/claimant had suffered serious injuries and he was admitted in a private hospital as in-patient for four days and taken treatment. The first respondent / claimant was an agricultural coolie and hence the Tribunal has taken his monthly income as Rs.7,500/- and awarded a sum of Rs.45,000/- towards loss of income; Rs.25,000/- towards pain and sufferings; Rs.25,000/- towards loss of amenities; Rs.14,250/- towards medical expenses; Rs.10,000/- towards transportation; Rs.10,000/- towards extra nourishment; Rs.5,000/- towards attender charges and Rs.1,000/-towards damage to clothes, thus, totalling a sum of Rs.1,35,250/- was awarded as compensation.

7. I have heard the learned counsel appearing for the appellant and also perused the records carefully.

8. The learned counsel appearing for the appellant/insurance company would vehemently contend that the quantum of compensation awarded by the Tribunal is highly excessive for the simple injuries sustained by the first respondent/claimant. However, considering the materials available on record, it could be seen that the claimant suffered grievous injuries and was admitted in the hospital and Ex.P5 accident register would reveal the same. Considering those circumstances, the Tribunal has awarded a sum of Rs.1,35,250/- as compensation, which, in my considered opinion is not excessive. Further, the Tribunal after considering the entire materials has rightly awarded the



Compensation.

9. In view of the above, I do not find any error or illegality in the order passed by the Tribunal warranting interference. There is no merit in the appeal and the appeal is liable to be dismissed and accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Motor Accident Claims Tribunal,
Special Subordinate Judge, Court No.2,
Salem.

Copy To

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

+1cc to Mr.Somasundar, Advocate, S.R.No.36896

C.M.A.No.1686 of 2020 and
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CNR(CO)
PM(06/08/2021)