



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2020

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THE HONOURABLE MR. JUSTICE S.S.SUNDAR
C.M.A. No. 524 of 2017
and C.M.P. No.3320 of 2017

The Branch Manager,
The United India Insurance Co.Ltd.,
Vellore.

... Appellant/ Respondent II

Versus

1.Manimaran
2.K.Gunasekaran

..1st Respondent/Claimant
... Respondent II/ Respondent I

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P. No.214 of 2005 dated 26.11.2015 on the file of the Learned Motor Accident Claims Tribunal (Sub- Judge) at Gudiyattam, Vellore District..

For Appellant : Mr. J.Chandran
For Respondent 1 : Mr. R.Rajadurai
2 : Ex-parte

JUDGMENT

This appeal is preferred by the insurance company as against the award of the Motor Accident Claims Tribunal passed in M.C.O.P. No.214 of 2005.

2. Learned counsel for the appellant submitted that the first respondent preferred a false claim with concocted documents. It is brought to the notice of this Court that the first respondent while travelling as a pillion driver in a two wheeler belonged to his own brother, fell down and suffered injury. The wound certificate given to the first respondent shows that he suffered a simple injury in his left hand. The discharge summary issued by the Christian Medical College also suggest that he did not suffer any major injury and that there was no head injury. It is seen that the discharge summary and the disability certificate were given by different doctors from the same institution with contradictions. The doctor who gave the disability certificate has not examined the injured. Only by



stating that the injured suffered a brain injury, the disability certificate is given to the effect that the first respondent suffered 70% disability on account of the accident. Though the disability was due to head injury, there was no indication from any other reliable evidence that the first respondent suffered head injury.

3. It is to be seen that the first respondent has not examined himself as a witness. The first respondent's wife and another person who claimed to have witnessed the accident were examined as P.W.1 and P.W.2. P.W.2 is a person who is well known to the first respondent. His evidence in the cross examination suggest that he is not a reliable witness and that his evidence may be to support the false claim at the instigation of the first respondent. The head injury stated to have been suffered by the first respondent is not true. However, based on the disability certificate and the evidence of P.W.2 and the document which was marked as Ex.P6, the Tribunal came to the conclusion that the first respondent claimant suffered head injury and that the first respondent suffered 70% disability due to head injury.

4. This Court is convinced that the disability on account of head injury is perverse in as much as the disability certificate was issued by a doctor who never treated the first respondent and it is quite contrary to the wound certificate marked as Ex.P6. It is to be seen that the first respondent has not examined himself as a party and he never appeared before the Court. This Court is unable to justify 70% disability on account of the injury which was not mentioned in the wound certificate. Since the finding regarding disability and head injury are based on documents which are not authenticated or proved, this Court is unable to sustain the award of Motor Accident Claims Tribunal awarding a sum of Rs.2,10,000/- towards permanent disability.

5. From the evidence adduced in this case, it is not possible for this Court to rule out the accident. Therefore, the first respondent is entitled to compensation for the medical bills. The claim of Rs.80,156/- towards medical bills and a further sum of Rs.50,000/- under other formal / conventional heads cannot be held to be in excess. Hence, this Court finds that the first respondent is only entitled to Rs.1,30,156/- as compensation. The appellant is directed to pay a sum of Rs.1,30,156/- (Rupees One Lakh thirty thousand one hundred and fifty six only) along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization, to the first respondent within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent is permitted to withdraw the same. In case, the appellant has already paid the amount in



excess than the amount granted by this Court in this judgment, the appellant is permitted to withdraw the excess amount with proportionate interest.

6. The Civil Miscellaneous Appeal is partly allowed and the award of the Motor Accident Claims Tribunal (Sub-Court, Gudiyatham), in M.C.O.P. No.214 of 2005, is modified to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

bkn
To

The Sub-Court, Gudiyatham.
(Motor Accident Claims Tribunal)

+lcc to Mr.G.Vinodh kumar , Advocate SR.No. 41929

+lcc to Mr.R.Rajadurai, Advocate SR.No. 42338

C.M.A. No.524 of 2017

LN(CO)

A.SK(06.09.2021)