

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.648 of 2017
and
C.M.P.No.3621 of 2017

M/s. Cholamandalam MS General Insurance Company Ltd.,
Rept. by its Branch Manager,
The Branch Office, Rajaji Road,
Bank of Travancore Upstairs,
Salem - 636 007.

.. Appellant/2nd Respondent

Vs.

1. K.Sundaresan
2. P.Manivel

...Petitioner
.. Respondents/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.04.2013 made in M.C.O.P.No.115 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.Mukund R.Pandiyan

For R2 : Died

JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal, the appellant Insurance Company has preferred this Civil Miscellaneous Appeal.

2.The facts leading to the filing of this appeal are as follows:

On 01.05.2008, at about 10.30 hrs, the first respondent/ claimant and one Balan were travelling in the TVS Suzuki MAX 100 R motorcycle bearing Registration No.TN 29 R 0735, as rider and pillion rider, respectively, in a slow and cautious manner following all the traffic rules, from Varamalaigunda to Bargur Tar Road towards Bargur. At that time, the Tata Indica car

bearing Registration No.TN 30 ABT 1502 belonging to the second respondent and insured with the appellant insurance company, driven by its driver in a rash and negligent manner, came from the opposite direction and dashed against the motorcycle. Due to the said impact, the first respondent and the pillion rider sustained multiple grievous injuries. Stating that the accident had occurred, due to the rash and negligent driving of the driver of the car, the first respondent filed a claim petition, claiming a compensation of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the car and awarded a total compensation of Rs.9,13,506/- with interest at 7.5% per annum from the date of petition. Aggrieved over the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.Today, when the matter is taken up for consideration, the learned counsel for the appellant insurance company and the learned counsel for the first respondent/claimant, on instructions, submitted that they have agreed to modify the award passed by the Tribunal to a sum of Rs.6,70,000/-along with interest at 7.5% pa from the date of petition and the appeal may be disposed of accordingly.

4.Recording the submissions so made by the learned counsel on either side, this appeal is disposed of and the award passed by the Tribunal is modified to Rs.6,70,000/- along with interest at 7.5%pa from the date of petition. The appellant insurance company is directed to deposit the modified compensation, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the same, on making proper application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Krishnagiri.

Copy to:
The Section Officer,
VR Section,
High Court, Madras.

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SPD (CO)
CB (26/04/2021)