



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 24.11.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1305 of 2008

and

M.P. (MD) No.4 of 2008

WEB COPY

The National Insurance Company Limited,
represented by its Branch Manager,
92, Thevar Puram Road,
Tuticorin .. Second Respondent/Appellant

vs.

1.Saroja ...Petitioner/Respondent No.1

2.S.Raveendran ...Respondent No.1/Respondent No.2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the fair and decretal order made in M.C.O.P.No.1116 of 2004, dated 8.2.2006, on the file of the Motor Accident Claims Tribunal(Additional District Judge-cum-Fast Track Court No.II),Tirunelveli.

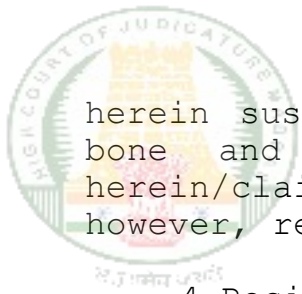
For Appellant : Mr.S.Srinivasa Raghavan
For Respondents : No appearance

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal (Additional District Judge-cum-Fast Track Court No.II), Tirunelveli. in M.C.O.P.No.1116 of 2004, dated 8.2.2006 , the appellant/Insurance Company has filed this appeal.

2.Since two claim petitions were filed arising out of the same accident, they were tried together and disposed of by common judgment dated 8.2.2006

3.Facts in Brief: On 13.8.2004 at 4.00p.m., one Soundarapandian, husband of one Rethanavathi who was travelling in the Maruthi Suzuki Car bearing Registration No., TN 04 7246 along Tiruchendur Kulasekaranpattinam Road in the south-north direction, the vehicle was driven by its driver, the second respondent herein in a rash and negligent manner. He lost control of the vehicle and hit against the claimant and one Saradha, claimant in M.C.O.P.No.1114 of 2004 who were standing in street to get water from the water pipe and rammed a coconut tree, in which, the said soundarapandian died on the spot and the claimant/first respondent



herein sustained fractures in the right hand and left chronicle bone and also other simple injuries. The first respondent herein/claimant has assessed the compensation at Rs.7,18,000/-, however, restricted her claim to Rs.3 lakhs .

4.Resisting the claim, the appellant/Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.

5.To substantiate the case, on the side of the claimants P.W.1 to P.W.4 were examined and Ex.P1 to Ex.P21 were marked. No witness was examined and no documents were marked on the side of the appellant/Insurance Company.

6.The Tribunal, upon consideration of evidence adduced by the parties, held that the driver of the car was responsible for the accident and awarded compensation of Rs.1,50,000/- along with interest at the rate of 7.5% p.a. Challenging the award, the appellant has filed the present appeal.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The appellant Transport Corporation has filed this appeal only challenging the quantum and no dispute is made regarding the manner of accident and the liability. Hence, it is not necessary to elaborate on other aspects.

9. A Perusal of the judgment of the Tribunal would show that the claimant has sustained multiple fractures and also simple injuries and was admitted in Government Hospital at Tiruchendur and then at Edison Hospital from 18.8.2004 to 30.8.2004 as inpatient and thereafter took continuous treatment for four months as out-patient. A perusal of Ex.P20 Wound Certificate and Ex.P21- X-Ray and evidence of P.w.4-Dr.Ramaguru would show that the claimant/first respondent herein has sustained 50% partial and permanent disability and hence awarded a sum of Rs.1,10,000/- towards loss of income. In addition, the Tribunal has awarded a sum of Rs.15,000/- towards pain and suffering, Rs.2000/- towards transportation and another sum of Rs.5000/- towards extra nourishment and in total, awarded a sum of Rs.1,50,000/- with interest at 7.5% p.a. Taking note of the facts of the case, in the considered opinion of this Court, the award is just and reasonable and hence the award of the Tribunal stands confirmed.

10.In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount,



less the amount already withdrawn, if any, together with proportionate interest and costs by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Additional District Judge-cum-Fast Track Court No.II,
Motor Accident Claims Tribunal,
Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 CC to M/s.S. SRINIVASA RAGHAVAN, Advocate (SR-23043[F] dated 27/11/2020)

JUDGMENT MADE IN
C.M.A(MD) No.1305 of 2008
24.11.2020

KMV(CO)
TR(10.12.2020) 3P 5C