



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.11.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.162 of 2008

and

M.P. (MD) No.1 of 2008

The Branch Manager,
The Oriental Insurance Company Limited,
Neyyatrinkarai,
Tiruvananthapuram District,
Kerala State

.. Appellant/Second Respondent

vs.

1.Mohammed Ali

... 1st Respondent/Claimant

2.P.Sulaiman

...Second Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the award made in M.C.O.P.No.1356 of 2003, dated 30.01.2006, on the file of the Motor Accident Claims Tribunal cum II Additional Sub-Court, Tirunelveli

For Appellant :Mr.K.Bhaskaran

For Respondent-1 :No appearance

For Respondent-2 :Dismissed vide order dated
10.4.2019

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal-cum- II Additional Sub-Court, Tirunelveli in M.C.O.P.No.1356 of 2003, dated 30.01.2006, the appellant/Insurance Company has filed this appeal.

2.Brief facts of the case are that on 6.9.2003 at about 2.30 a.m., when the first respondent herein/claimant along with other claimants travelled as a Load man in a Tempo van bearing Registration No.KL 01 N 5220, belonging to the second respondent herein, insured with the appellant herein, loaded with Fish and the said vehilce was driven by its driver in a rash and negligent manner and got capsized near Panagudi. In the accident, the claimants have



sustained injuries and fractures all over the body and they were taken to Thiraviam Hospital, Nagercoil for first aid and thereafter claimant herein was admitted in Grace Hospital, Kaliyakkavilai for treatment and other claimants in different hospitals. For the injuries sustained, the first respondent herein/claimant had filed a claim petition claiming compensation of Rs.3,34,000/- under various heads, however, restricted his claim to the tune of Rs.2 lakhs.

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

4.It appears that the injured passengers in the offending vehicle, also sought compensation. All the claim petitions were tried together by the Tribunal. To substantiate the case, on the side of the claimants P.W.1 to P.W.4 were examined and Ex.P1 to Ex.P16 were marked. On the side of the appellant, one witness was examined as R.W.1 and one document was marked as Ex.R1.

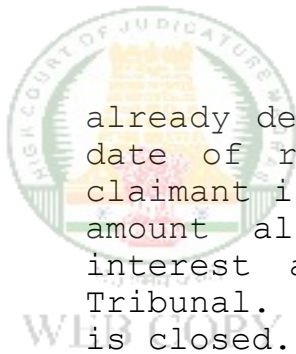
5.The Tribunal, on the evidence adduced, held that the driver of the van was responsible for the accident and awarded a total compensation of Rs.65,000/- along with interest at the rate of 7.5% p.a. Assailing the said decision, the insurer of the vehicle, has filed the present appeal.

6.Heard the learned counsel appearing for the appellant Insurance Company and perused the materials available on record. Though notice was served on the first respondent, none appears on behalf of him and the appeal as against the second respondent already stand dismissed.

7.In this appeal, a challenge is made only to the quantum and there is no dispute with regard to the manner of accident and the liability. Hence, it is not necessary to elaborate on other aspects.

8. A Perusal of the judgment of the Tribunal would show that the claimant was aged 30 years at the time of accident and his monthly income was Rs.6,000/-. The Tribunal after considering the injuries and fractures sustained by the claimant, age and avocation, totally awarded a meagre sum of Rs.65,000/- under various heads, with interest at 7.5% p.a. Though it is contended that the award is on the higher side and it requires reduction, this Court is of the view that the Tribunal has awarded a just and reasonable compensation.

9.In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. Since the appeal is dismissed, the appellant/Insurance Company is directed to deposit the entire award



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 entire 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-III)

// 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

The II Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

Copy to:

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

JUDGMENT MADE IN
C.M.A(MD) No.162 of 2008
and
M.P. (MD)No.1 of 2008

06.11.2020

SVNCO)

NR (07/12/2020) 3P : 4C

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