



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.NO.2901 OF 2008

AND

M.P.NO.1 OF 2008, 1 OF 2012

M/s.United India Insurance
Company Limited,
Branch Office,
19, Neela South Street,
Nagapattinam 611 001.

... Appellant/2nd Respondent

-VS-

1.Minor Priyanka
(Minor represented by her mother and
next friend Selvi)

...Respondent/Petitioner

2.M.Gnanasundari

... Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 05.03.2008 made in O.P.No.4 of 2006 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Mannargudi.

For Appellant : Mr.Raghavan

For Respondents : M/s.V.Raghupathi for R1
R2 Exparte

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 05.03.2008 made in O.P.No.4 of 2006 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Mannargudi.



2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal

WEB COPY

3. The case of the claimant is that on 01.05.2005 when the claimant along with the parents were proceeding to temple on the left hand side of the road, from the opposite side, the Motor Cycle driven in a rash and negligent manner by the rider of the Motor Cycle and dashed against the claimant and her parents. Due to the said accident the minor claimant sustained grievous injuries on her tooth and also on her abdomen and abrasions all over her body. Immediately she was taken to Government Hospital, Thiruthuraipoondi and she had taken treatment as in-patient. Thereafter, she had taken treatment in a Private Hospital. In fact, FIR was registered as against the rider of the Motor Cycle for the offence under Sections 279 and 337 of IPC and the rider of the Motor Cycle is also convicted in S.T.C.No.1163 of 2005 by the Judgment dated 16.11.2005. Due to the said accident minor Priyanka was not able to continue her studies and the academic year was wasted. Therefore, she filed claim petition claiming compensation for Rs.2,00,000/-.

4. Resisting the same, the first respondent filed a counter stating that accident took place only due to the rash and negligent driving of the insurer. The rider of the Motor Cycle who had driven the Motor Cycle by following all traffic rules in a lawful manner. Only because of the petitioner's act the accident took place and as such the second respondent is not held to be liable for any compensation claimed by the claimant.

5. On the side of the petitioner P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were marked. On the side of the second respondent R.W.1 and R.W.2 were examined and no exhibits were marked. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal had fastened the negligence on the part of the rider of the Motor Cycle and awarded compensation for a sum of Rs.33,000/- (Rupees Thirty Three Thousand only). Aggrieved by the same, the appellant filed this Civil Miscellaneous Appeal.

6. Heard Mr.Raghavan, learned counsel appearing for the appellant and Mr.V.Ragupathi, learned counsel appearing for the first respondent.



7. The petitioner along with her parents while proceeding to temple on 01.05.2005 at 06.00 P.M, the Motor Cycle driven by the rider of the Motor Cycle in a rash and negligent manner and dashed as against the petitioner and her parents. Therefore the first respondent / claimant sustained grievous injuries and also she lost her tooth. She also sustained injury on her abdomen along with abrasions all over her body. She was admitted in the Government Hospital and thereafter, she also had taken treatment in the Private Hospital, her disability was assessed by P.W.2 / Doctor at 20%, since her teeth was broken and as such it is permanent disability. Even then the Tribunal awarded a sum of Rs.1,000/- per percentage. Therefore, this Court finds no points for reducing the compensation as awarded by the Tribunal.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CJ Conf)

// True Copy //

Sub Assistant Registrar

rna

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mannargudi.

2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1cc to M/s.G.Devi, Advocate, S.R.No.23911

C.M.A.No.2901 of 2008
and M.P.No.1 of 2008, 1 of 2012

PP(CO)
RLP(20/10/2021)