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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.1242 of 2013 and

M.P.No.1 of 2013

The Divisional Manager,
The New India Assurance Co. Ltd.,
Motor third party claims office,
No.60, 70 Sheikpet Nadu Street,
Kancheepuram, 631 501.

... Appellant/2nd respondent

Vs.

1. Amirtham ... first respondent/ 3rd Petitioner
2. V. Jayakanthan ... second respondent/ first respondent

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 12.04.2012 passed in MCOP No.251 of 2007 by the Principal Subordinate Judge, Motor Accident Claims Tribunal, Chengalpattu.

For Appellant	: Mr. J.Chandran
For respondents	: No appearance for R1
	Notice served to R2.

J U D G M E N T

Aggrieved over the award passed by the Tribunal, the insurance company has filed the present appeal challenging the liability.

2. The claimant has filed a claim petition before the Tribunal seeking compensation of Rs.50,000/- for the injuries sustained by her in a road accident that took place on 04.04.2005.

3. The brief case of the claimants is as follows: The claimant was a vegetable vendor and on 04.04.2005 at about 8.00 hours, the claimant was travelling in a tempo van bearing



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registration No.TN-22-C-1356 from her Village to Koyambedu along with the other vegetable vendors and while nearing Andal-Azhagar Engineering College at Mamandur Village, the driver of the tempo van drove the vehicle rashly and negligently, thereby the front tyre of the tempo van busted and due to the impact, the petitioner and other vendors sustained multiple injuries and immediately, the petitioner was admitted to Government Hospital, Chengalpattu and was treated as inpatient from 04.04.2005 to 07.04.2005 and then taking treatment in Government Hospital as well in the Private Hospital. According to the claimant, the rash and negligent driving of the driver of the tempo van was the cause of accident and since the first respondent insured his vehicle with the second respondent/ insurance company, both of them are liable to pay compensation.

4. The claim petition was resisted by the Insurance company by filing counter affidavit.

5. Before Tribunal, three claim petitions in MCOP No.247, 250, and 251 of 2007 were filed by three persons, who sustained injuries in the same accident that took place on 04.04.2005 and on the side of the claimants, three witnesses were examined as PW1 to PW3 and Ex.P1 to Ex.P8 were marked and on the side of the respondents, one witness was examined and Ex.R1 to Ex.R3 were marked. As far as the claimant in the instant case is concerned, she filed MCOP No.251 of 2007 and she was examined as PW3 and Ex.P5 to Ex.P8 were marked.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.24,000/- as compensation to the claimant under various heads as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Loss of earning 3000x3	9,000
2	Transportation charges	2,000
3	Extra Nourishment	1,000
4	Pain and sufferings	12,000
	Total	24,000

Aggrieved over the Award passed by the Tribunal, the present appeal has been filed by the insurance company.



period of four weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

mst

To

1. The Principal Subordinate Judge, Chengalpattu.
2. Section Officer, V.R. Section, Madras High Court, Chennai - 104.

+1CC to Mr.J.Chandran, Advocate, SR.No. 11469

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GMR(CO)
B.VC (21/09/2021)