



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1883 of 2015

and

M.P.No.1 of 2015

Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, No.46, Whites Road,
Chennai - 14.

.. Appellant/2nd Respondent

Vs.

1.C. Velu @ Dhinakaran

2.S. Ashokkumar

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.1047 of 2011 on the file of the Motor Accident Claims Tribunal (Principal District Judge) at Cuddalore dated 05.11.2014.

For Appellant : Mr. M. Krishnamoorthy

For R1 : No Appearance

For R2 : Ex-parte

J U D G M E N T

The appeal has been filed by the Insurance Company challenging the award dated 05.11.2014 passed by the Motor Accidents Claims Tribunal, (Principal District Judge), Cuddalore in M.C.O.P.No.1047 of 2011.

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

(i) The first respondent while travelling as a pillion rider, on 24.04.2011 the lorry bearing Registration No.TN-21-P-3184 met with an accident and sustained injuries. The second respondent who was the owner of the said vehicle. The first respondent



preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.1047 of 2011, seeking compensation of Rs.5,00,000/-.

(ii) The Motor Accidents Claims Tribunal, by its Award dated 05.11.2014 in M.C.O.P.No.1047 of 2011 directed the appellant and second respondent to pay compensation to the first respondent jointly and severally a sum of Rs.2,76,246/- together with interest at the rate of 6% per annum from the date of claim till the date of realisation.

3. Challenging the award passed in MCOP.No.1047/2011 on the file of Principal District Judge, Cuddalore on the ground of negligence and quantum.

4. Mr. M. Krishnamoorthy, the learned counsel for the appellant / Insurance company would contend that while the insured lorry was parked on the marginal side of the road, the first respondent who is the pillion rider in two wheeler driven by owner of the vehicle came and dashed from the behind on the parked lorry thereby caused the accident. Based upon the oral and documentary evidence and also the injured witness P.W.1 and P.W.2, the tribunal has fixed the negligence on the part of the driver of the insured parked lorry at 90% and rider of the two wheeler at 10% each and contend that the parked lorry was properly parked on the marginal side of the road. Hence, the contributory negligence should have been fixed on the other way.

5. It is brought to my notice that the rider of the two wheeler has filed the appeal against the very same common judgment in C.M.A.No.2423/2015, by an order dated 13.12.2009, this Court has dismissed the appeal preferred by the rider of the two wheeler, confirming the negligence as fixed by the Tribunal at 90% and 10% on the respective vehicle and also the quantum.

6. In view of the order passed in the above CMA, I find that the negligence on the part of the driver of the insured parked lorry need not be gone into and the same is binding. On the point of quantum, I find that though in some heads, there is some marginal excess but on the whole, the compensation appears to be just and reasonable. Accordingly, on both point of negligence and quantum, I do not find any reason to interfere. Accordingly, the award passed by the tribunal is hereby confirmed.

7. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant / Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being



made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

WEB COPY

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

AT

To

1.The Motor Accidents Claims Tribunal,
Principal District Judge, Cuddalore.

2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.M. Krishnamoorthy, Advocate SR.No.15602
C.M.A.No.1883 of 2015

GMR (CO)
GMY (22/09/2021)