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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CIVIL MISCELLANEOUS APPEAL NO.3361 OF 2013

CROSS OBJ.NO.39 OF 2020

AND

M.P.NO.1 OF 2013

The National Insurance Company Ltd.,
No.19, Officers Line,
Vellore, Vellore District.

... Appellant in C.M.A.No.3361 of 2013/
2nd Respondent in Cross Obj. No.39 of 2020
(2nd Respondent)

..vs..

1. C.Ashokan

... Respondent-1 in C.M.A./Cross Objector
in Cross Obj. No.39 of 2020 (Claimant)

2. V.Prabhakar Reddy

... Respondent-2 in C.M.A./1st Respondent
in Cross Obj. No.39 of 2020
(1st Respondent)

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 14.08.2013 made in M.A.C.T.O.P.No.977 of 2013 on the file of Special Subordinate Judge (Motor Accidents Claims Tribunal), Tirupattur.

For Appellant in the
Appeal and 2nd Respondent : Mr.S.Vadivel
in the Cross Objection

For Respondent No.1 in
the Appeal and for the : Mr.P.A.Sudesh Kumar
Cross Objector in the
Cross Objection



JUDGMENT

Brief facts of the claimant's case is as follows:

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It is the case of the claimant that on 30.11.2003 at about 3.00 a.m, when the claimant was traveling in a car bearing no. PY-01-M-8686 owned by the the 2nd Respondent herein and insured with the Appellant/Insurance Company, which was driven by its driver in a rash and negligent manner near Periyathallapadi village in between Tirupattur and Singarapettai main road and the above said car was capsized. Due to the impact, the claimant sustained grievous injuries. The Claimant was taken to Apollo K.H. Hospital at Melvisharam and then shifted to Apollo Hospital, Chennai for treatment. The injured filed claim petition before the tribunal, claiming compensation of Rs.25,00,000/- for the Permanent disability sustained by the petitioner in the aforesaid accident.

2. Before the Tribunal, witnesses P.W.1 & P.W.2 were examined and Exhibits P1 to P14 were marked on the side of the claimants and R.W.1 & R.W.2 were examined and Exhibits R1 to R12 were marked on the side of the respondents. After analyzing both oral and documentary evidences, the Tribunal has awarded Rs.3,64,500/- as total compensation along with interest at the rate of 7.5% p.a from the date of petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

Heads	Amount in Rs.
Loss of Income (Rs.8,000/- x 4 months)	32,000/-
Extra Nourishment	8,000/-
Medical Expenses	2,24,510/-
Permanent Disability (Rs.2,000/- x 35%)	70,000/-
Pain & Sufferings	30,000/-
Total	3,64,510/- Rounded to Rs.3,64,500/-

3. Heard the learned counsel appearing for the appellant/ Insurance Company and the learned counsel appearing for the 1st respondent/claimant and perused the materials available on record.



4. The main contention of the learned counsel appearing for the appellant/Insurance company is that the claim itself is fabricated one on the basis of a false complaint registered by the Singarapettai Police given by the relative of the claimant viz., Mr. Jayakumar. According to the counsel appearing for the appellant, Jayakumar, who lodged the complaint was not at all travelled in the Car bearing registration No. PY 01 M 8686 alleged to have been involved in the accident. Therefore, he preferred a complaint before the C.B.C.I.D., Krishnagiri and the same was registered in Cr.No.20 of 2005 under Sec.466, 467, 468, 471, 420 & 511 of I.P.C. and based on the final report, charges were framed and the case was disposed on 13.7.2019 in C.C.No.16 of 2019. According to the appellant, genuineness of the claim petition was investigated by the police and charge sheet also filed before the Judicial Magistrate Court, Krishnangiri. After examining the witnesses, the claimant and 2 others were acquitted from the charges. Therefore, the ground raised by the appellant that the claim itself is a false one cannot be accepted and the same is liable to be rejected.

5. Secondly, insofar as the quantum of compensation, by analyzing evidence of P.W.1 to 5, R.W.1 and R.W.2 and documentary evidence adduced by both sides, the tribunal has fixed 35% permanent disability sustained by the claimant and by fixing Rs.2000/- per percentage, awarded Rs.70,000/-. Insofar as other heads also, the tribunal has awarded just and reasonable compensation to the respondent/claimant and finally, the tribunal has awarded a sum of Rs.3,64,510/- as total compensation towards permanent disability sustained by the claimant in the accident. Therefore, there is no merit in the appeal and consequently, the appeal is liable to be dismissed.

6. The respondent/claimant has filed Cross Objection before this Court. The learned counsel appearing for the respondent/claimant has no serious objection for 35% permanent disability fixed by the tribunal. Therefore, taking note of the aforesaid discussion for the issues raised in the appeal and also considering the fact that the tribunal has awarded just and reasonable compensation to the respondent/claimant, the Cross Objection is also liable to be dismissed.

7. Accordingly, the appellant/Insurance company shall deposit the compensation amount, as awarded by the tribunal, along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks, from the date of receipt of a copy of this judgment.

8. In the result, the Civil Miscellaneous Appeal is dismissed. Cross Objection filed by the Claimant is also



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dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(SSA)

//True Copy//

Sub Assistant Registrar

vaan

To

1. The Special Subordinate Judge
(Motor Accidents Claims Tribunal),
Tirupattur.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai - 104.

+1cc to Mr.S.Vadivel, Advocate, S.R.No.17677

+1cc to Mr.P.A.Sudesh Kumar, Advocate, S.R.No.17524

CIVIL MISCELLANEOUS APPEAL NO.3361 OF 2013
CROSS OBJ.NO.39 OF 2020 AND
M.P.NO.1 OF 2013

VG-II(CO)
PBS/16/11/2021