



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.2318 of 2014 and
M.P.No.1 of 2014

The United India Insurance Company Ltd.
13A, Nethaji Road, Manjakuppam,
Cuddalore.

...Appellant/2nd respondent

Vs.

1. Manikkavasagar
2. R.Vetrivelan

...1st respondent/ claimant
...2nd respondent/1st respondent

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 28.03.2014 passed in MCOP No.2255 of 2009 by the Principal Subordinate Judge, Motor Accident Claims Tribunal, Cuddalore.

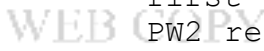
For Appellant : Mr.D.Bhaskaran

J U D G M E N T

Aggrieved over the orders passed by the Tribunal, the appellant/ insurance company has filed the present appeal challenging the liability as well as the quantum of compensation.

2. The claimant has filed a claim petition under Section 163-A of the Motor Vehicles Act, before the Tribunal seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 18.05.2009

3. The brief case of the claimants is as follows: On 18.05.2009 at about 7.00 p.m. the claimant was riding his motorcycle along Vadalur Kurinjipadi Road and while nearing Vadalur, a paddy harvester bearing registration No.TN-21-Q-4857 coming from opposite side, hit the motorcycle, thereby, he sustained injuries. According to the claimant, the rash and negligent driving of the driver of the harvester was the cause of accident, and since the first respondent insured his vehicle with the second respondent, both of them are liable to pay compensation to them.



5. Before Tribunal, on the side of the claimants, the first claimant and one another witness were examined as PW1 and PW2 respectively and Ex.P1 to Ex.P7 were marked. On the side of the insurance company, no oral and documentary evidence was adduced.

Sl No	Heads	Amount in Rs.
1	Disability (3300 x 12 x 16 x 13%)	82368
2	Loss of future income 3300x2	6,600
3	Pain and sufferings	20000
4	Medical expenses	5,000
5	Transportation charges	5,000
6	Extra Nourishment	3,000
	Total	1,21,968

7. Heard the learned counsel for the appellant and I have perused the materials on record.

9. At this juncture, it is pertinent to note that in an identical case in CMA No.2547 of 2013, this court by order dated 08.02.2021 has decided that the grounds raised by the appellant/insurance company is not sustainable. The relevant paragraphs are extracted hereunder.



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7. It is brought to the notice of this court that the Hon'ble Supreme Court in United India Insurance Co. Ltd. Vs. Sunil Kumar and another (Civil Appeal No.9694 of 2013, dated 24.11.2017) in paragraph 9, has held that in a proceeding under Sec.163-A of the Act, it is open for the insurer to raise any defence of negligence on the part of the victim.

8. The aforesaid judgment is squarely apply to the facts of the case in hand. The learned counsel appearing for the appellant cannot dispute the dictum laid down by the Hon'ble Supreme Court. Therefore, in the light of the decision cited supra, the grounds raised by the appellant/insurance company is not sustainable. The appellant has no grievance in so far as the quantum of compensation awarded by the Tribunal.

10. For the reasons stated above, this court is of the view that the Tribunal has rightly passed the award in favour of the claimant. Hence, there is no warrant to interfere with the award passed by the Tribunal.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Motor Accident Claims Tribunal,
The Principal Subordinate Court,
Cuddalore.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai-104.

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M.P.No.1 of 2014

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NSK 15/09/2021