



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.3471 of 2021 and
CMP.No.20023 of 2021

The Divisional Manager,
National Insurance Company Ltd.,
No.62-A, 2nd Floor, Jawaharlal Nehru Street,
Puducherry. ... Appellant/2nd Respondent

Vs

1.Shagul Ameer ... 1st Respondent/Petitioner

2.Kasi

3.Nagoor Meeran

4.The Divisional Manager,
Chola MS General Insurance Co. Ltd.,
D-126, 100 Feet Road,
Mudaliarpettai,
Puducherry. ...2 to 4 Respondents/1, 3, 4th Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 22.3.2021 made in MCOP.No.873 of 2017 on the file of Additional Motor Accidents Claims Tribunal, Puducherry.

For Appellant : Mr.D.Bhaskaran

J U D G M E N T

The Insurance Company is on appeal questioning the award of the Motor Accidents Claims Tribunal, Puducherry made in MCOP.No.873 of 2017 dated 22.03.2021.

2.The injured claimant sought for compensation of Rs.20,00,000/- for the injuries suffered by him in a motor accident that occurred on 10.02.2017. According to the claimant, when he was proceeding in his Hero Honda Passion Pro motorcycle bearing Registration No.PY-01-AZ-6199 along the Puducherry-Marakkanam East Coast Road. The first respondent's vehicle



namely, TATA Indica car bearing Registration No.TN-07-BD-9994 was driven by its driver towing TATA Ace tempo bearing Registration No.PY-01-AM-8786 owned by the 3rd respondent.

3.According to the claimant, the car which was towing the goods vehicle crossed the road from west to east, all of a sudden without waiting for the vehicles plying on the highway. The claimant, who was riding a two wheeler lost control and hit against the goods vehicle as his efforts to stop the vehicle did not fructify due to the sudden interruption caused by the car. Contending that the driver of the car was solely responsible for the accident, the claimant sought for compensation. The Tribunal considered the question of negligence and concluded that the driver of the car was responsible for the accident. The Tribunal concluded that the driver of the vehicle that was being towed had no control over the vehicle and it was the driver of the car, who should have been doubly cautious while crossing the highway towing another vehicle.

4.The Tribunal discussed the evidence and found that there is no evidence to show that the driver of the goods vehicle which was being towed could have contributed to the accident. The Tribunal also held that since the driver of the vehicle that is being towed does not have any control over the vehicle and even if he applies brakes that will be of no consequence. On the above findings, the Tribunal held that the appellant Insurance Company namely, the insurer of the car is liable to pay the entire compensation. On the quantum, the Tribunal found that the claimant is entitled to a sum of Rs.5,68,000/- and had granted a compensation on various heads as follows:-

Heads	Amount Rs.
Partial Permanent disability	1,25,000/-
Pain and suffering	1,00,000/-
Extra nourishment	30,000/-
Assistants	45,000/-
Travelling expenses	6,000/-
Medical expenses	1,15,000/-
Future Medical expenses	40,000/-
Loss of income	1,07,000/-
Total	Rs.5,68,000/-



5.Mr.Bhaskaran, learned counsel appearing for the Insurance Company would contended that the amount awarded for pain and suffering and loss of income are on the higher side. As far as pain and suffering is concerned, it is seen that there is an injury in the L1 region of the vertebra. It is needless to point out that such injury will have a long losing effect and requires continuous pain management. Therefore, I do not find any reason to interfere with the quantum under the head of pain and suffering.

6.As regards loss of earning, the Tribunal has taken the income at Rs.8,891/- on the basis of salary certificate that has been produced. In the absence of any evidence to the contrary, I do not find any error on the part of the Tribunal and accepting the salary certificate. Again considering the nature of the injury, particularly injury being in the spinal column, it would have taken not less than one year for the claimant to recover and be fit to continue with this avocation. I therefore do not find any reason to interfere with the award. This appeal fails and accordingly it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Additional Motor Accidents Claims Tribunal,
Puducherry.

Copy To

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

+1cc to Mr.D.Bhaskaran, Advocate SR.No.66810

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SRA(CO)
GN(24/01/2022)