



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.550 of 2013

and

MP(MD)No.1 of 2013

Branch Manager,
The Oriental Insurance Company Limited,
Thanjavur.

: Appellant/2nd Respondent

Vs.

1.Nagarajan

: 1st Respondent/Petitioner

2.Sakthivel

: 2nd Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 18.08.2006 made in MCOP No.1085 of 2003 on the file of Motor Accident Claims Tribunal (Principal Sub Court), Thanjavur.

For Appellant : Mr.K.Bhaskaran

For 1st Respondent : Mr.M.Karunanithi

For 2nd Respondent : Dispensed with,
Dated 03.04.2013

JUDGMENT

Challenge made in this appeal is to the award, dated 18.08.2006 made in MCOP No.1085 of 2003 on the file of Motor Accident Claims Tribunal (Principal Sub Court), Thanjavur.

2.The brief facts of the case are that on 16.09.2003, the claimant was travelling as pillion rider in the motor cycle TVS-50 TN-49-B-3617, while one Nagarajan was riding the said motor cycle. When they were proceeding on Thanjavur-Pudukkottai road, near Thirukanoorpatti, the Lorry TN-72-Y-2777 came in a rash and negligent manner and hit against the two wheeler. In the accident, the claimant had sustained injuries all over the body and initially, he was taking treatment in the Thanjavur Medical



College Hospital and subsequently, he was taking treatment in a private hospital. The injured claimant filed a claim petition seeking compensation of Rs.4,00,000/- on the ground that the driver of the Lorry was responsible for the accident.

3.The claimant has stated that at the time of the accident, his age was 40 and he was working as Mazan and was earning Rs.6,000/- per month. A criminal case in Crime No.287 of 2003 was registered against the driver of the Lorry by Vallam Police.

4.The claim was opposed by the appellant Insurance Company disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Lorry was responsible for the accident and awarded compensation of Rs.99,480/- together with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Insurance Company is before this court.

6.Heard both sides and perused the materials available on record.

7.It is contended by the learned counsel for the appellant Insurance Company that the quantum of award is on the higher side, so the quantum is to be reduced. On the other hand, the learned counsel for the 1st respondent/claimant submitted that the award is reasonable, which does not warrant any interference of this court.

8.PW1 is the injured as well as the eye witness to the accident. A criminal case was registered against the driver of the Lorry. Ex.P1 FIR stands registered based on the complaint given by PW1. On perusal of Ex.P8, criminal court judgment, the driver of the Lorry admitted his guilt and paid fine. PW1 has given evidence stating that he sustained fracture in right hand, right leg, left leg and right shoulder and due to it, he was not able to do his regular work. Ex.P9 is the Disability Certificate. Ex.P10 is the scan report.

9.PW2 Dr.Rathina Sabhapathy has deposed that he examined the claimant and found that the claimant had sustained fracture injuries and he assessed 22% partial permanent disability and issued Ex.P9 disability certificate to the claimant. Based on the evidence, the Tribunal has come to the conclusion that the claimant has suffered 22% partial permanent disability and awarded Rs.84,480/- under the head. Further, the Tribunal has awarded Rs.10,000/- towards pain and sufferings; Rs.5,000/- for



transportation, medical expense, nutrition, damages to clothes, totally Rs.99,480/- together with interest @ 7.5.% p.a. In the considered view of this court, the award is fair and reasonable and therefore, it is confirmed.

10. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

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Sub Assistant Registrar (CS)

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To

The Principal Sub Judge,
Motor Accidents Claims Tribunal,
Thanjavur.

Copy to

The Record Keeper-2 copies
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

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