



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.03.2021

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WEB COPY

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.594 of 2013

and

MP(MD)No.2 of 2013

National Insurance Company Limited,
No.92, Devarpuram Road,
Thoothukudi.

: Appellant/2nd Respondent

Vs.

1.J.Rajadurai Samuel
2.Ponvel

: 1st Respondent/Petitioner
: 2nd Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court No.I), Thoothukudi, made in MCOP No.379 of 2009, dated 18.08.2010.

For Appellant : Mr.D.Sivaraman

For 1st Respondent : Mr.R.Subramanian

For 2nd Respondent : Mr.R.Pon Karthikeyan

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award passed by the Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court No.I), Thoothukudi, made in MCOP No.379 of 2009, dated 18.08.2010.

2.The short facts of the case is that on 15.10.2001 at 1.45 pm, when the claimant was riding his motor cycle along with his friend Newton Ponsankar on the Thalavaipuram to Kayamozhi road, the Trucker TN-2782 came in the opposite direction in a rash and negligent manner and dashed against the motor cycle. In that process, the claimant sustained serious injuries in his right leg and right hand and he was taken to Devi Hospital at Kokkirakulam, Tiruchendur, where he took treatment for sometime. A claim petition was filed by the claimant seeking compensation of Rs.3,00,000/- on the ground that the offending vehicle has caused the accident.



3.The claim was resisted by the appellant Insurance Company contending that the claim made by the claimant was excessive and that the driver of the offending vehicle was not having valid driving licence on the date of the accident and hence, the Insurance Company is not liable to pay the compensation.

4.Before the tribunal, on the side of the claimant, 1 witness was examined and marked 11 documents. On the side of the Appellant Insurance Company, 2 witnesses were examined and 1 document was marked.

5.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.46,000/- together with interest @ 7.5% p.a., Challenging the said award, the present appeal has been filed by the appellant Insurance Company.

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

7.The learned counsel appearing for the appellant has mainly contended that the Insurance Company had proved that the driver of the offending vehicle did not have any valid licence at all on the date of the accident and that the tribunal having accepted the above fact, has wrongly fastened the liability on the Insurance company. It is further submitted that the award of the tribunal is on the higher side.

8.It is seen from the records that at the time of accident, the offending vehicle was insured with the appellant Insurance Company. Further, RW1 stated that the insured period for the offending vehicle is 22.03.2001 till 21.03.2002 and on the date of the accident, there was a valid policy. Hence, the appellant Insurance Company is liable to pay the compensation.

9.It is not in dispute that the claimant had sustained injuries in the alleged accident that took place on 15.10.2001. In this case, Ex.P4 Wound Certificate corroborates the case of the claimant. As the claimant has not proved the disability, the tribunal has not awarded any amount towards partial permanent disability. Based on the medical evidence, the Tribunal has awarded Rs.10,000/- towards pain and sufferings; Rs.5,000/- towards mental agony; Rs.5,000/- towards medical expenses; Rs.5,000/- towards extra nourishment; Rs.1,000/- towards transportation to the hospital; Rs.10,000/- towards loss of income during the treatment period; Rs.10,000./- towards loss of amenities in life and loss of happiness in life In total, the tribunal has awarded Rs.46,000/- together with interest @ 7.5% pa. In my considered view, the quantum awarded by the



10. In the result, this Civil Miscellaneous Appeal is dismissed.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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To,

The Motor Accident Claims Tribunal/
Additional District Judge, FTC No.1,
Thoothukudi.

Copy to

The Record Keeper,
VR Section,
Madurai Bench of Madras High Court, Madurai(2 copies)

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-11936[F] dated 17/03/2021)

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16.03.2021

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TR(24.06.2021) 3P 5C