

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated : 25.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.M.A. (MD) .No.191 of 2021**

WEB COPY

Sree Ram General Insurance Company Ltd.,
Through its Branch Manager
Gokale Road
Opposite to Lady Dock College
Chinnachokkikulam
Madurai 625 002

...Appellant/Respondent No.2

Vs.

1.Chithiraiselvan

..Respondent No.1/Petitioner

2.T.Ganesan

..Respondent No.2/Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the Judgment and Decree passed by the Motor Accident Claims Tribunal, Special Sub Court, Madurai in MCOP.No.1042 of 2016 dated 24.01.2020.

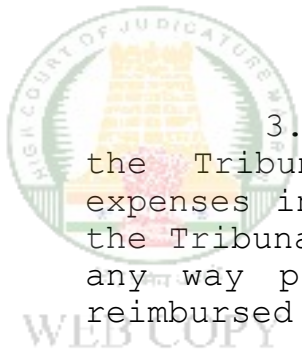
For Appellant

: Mr.D.Sivaraman

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the Judgment and Decree passed by the Motor Accident Claims Tribunal, Special Sub Court, Madurai in MCOP.No.1042 of 2016 dated 24.01.2020.

2.The case of the claimant is that on 17.03.2016, the first respondent/claimant was travelling as a pillion rider in the two wheeler Hero Honda Motor Bike bearing Registration No.58-S-8836 and the said two wheeler was driven by his friend Manivel. When the two wheeler coming from Madurai to Alagarkovil road, the lorry bearing Registration No. TN-76-C-7672 driven by its driver with high speed and dashed against the two wheeler, due to that, the claimant sustained grievous injury on his back side of his head. The driver of the two wheeler sustained fatal injury and succumbed. The claimant filed a claim petition in MCOP.No.1042 of 2016 before the Motor Accident Claims Tribunal, Special Sub Court, Madurai, seeking a compensation of Rs.4,00,000/- where the Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimant and also on appreciating the evidence on record, awarded a sum of Rs.3,30,000/- along with interest at the rate of 7.5% per annum, against which, the Insurance Company preferred this appeal questioning the quantum of compensation.



3. The learned counsel for the appellant would submit that the Tribunal erred in granting Rs.1,74,000/- towards medical expenses in the absence of production of original medical bills and the Tribunal has failed to note that the evidence of PW2 will not in any way prove that the claimant has not got the medical bills reimbursed from any other insurer.

4. Heard the learned counsel for the appellant and perused the materials available on record.

5. Perusal of record shows that Exhibits 2, 3, 5 and 6 xerox copies of the medical bills, the learned Judge finding that if Exhibit P4 which is the discharge summary has been filed in original and if really the claimant has got reimbursed from any other insurer, the claimant could not have filed Exhibit P4 and further the Hospital employee has been enquired as PW2 and the Hospital document does not show that any other insurer has reimbursed the medical bills which was not able to be disputed by the appellant and also considering the nature of the injuries, the award granted by the Tribunal is very low and therefore, I do not find any reason to interfere with the order passed by the Tribunal.

6. In view of the above, the appellant / Insurance Company is directed to deposit the entire award amount with interest at the rate of 7.5% p.a. within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. The first respondent/claimant is permitted to withdraw the entire award amount with interest and costs, without filing any formal petition.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

msa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1. The Special Sub Judge,
The Motor Accident Claims Tribunal,
Special Sub Court, Madurai

2. Chithiraiselvan,
S/o. Ammavasai, 1/139,
Kathakinary, Madurai North Taluk,
Madurai District.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-7669[F] dated 26/02/2021)

C.M.A. (MD) .No.191 of 2021
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DKS (CO)
KB(28.04.2021) 3P 4C