



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI

C.M.A (MD) No. 437 of 2017

and

CMP (MD) No. 4695 of 2017

The Branch Manager,
Oriental Insurance Company Limited,
2nd Floor, Sri Vijay Complex,
Theni Post, Theni Taluk,
Theni District.

: Appellant/2nd Respondent

Vs.

1. Lakshmi
2. S. Samydas

: R1/Petitioner
: R2/ 1st Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 19.03.2013 made in MCOP No.15 of 2012 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Theni.

For Appellant : Mr. C. Ramachandran

For Respondents : No appearance

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Theni, in MCOP No.15 of 2012, dated 19.03.2013.

2. The brief facts of the case are that on 11.12.2011, the deceased Ponmaran and his wife Lakshmi went to Cumbum to take part in the procession in respect of Mullai Periyar dispute at Cumbum. The deceased and his wife went in the motor cycle TN-58-H-8142. They were proceeding from K.K Patti to Cumbum. When the deceased turned to Cumbum Bus Stand road, the driver of the tractor TN-60-E-0464 along with trailer coming on the back, drove it in a rash and negligent manner and dashed on the motor cycle. Due to it, both of them fell down and the deceased sustained injuries on the back side of the head and left shoulder and his wife Lakshmi also sustained injuries on the head and right shoulder. They were taken to



Government Hospital, Cumbum, however, the deceased Pnmaran died in the hospital itself and the claimant sustained multiple injuries on the right side of the chest, right wrist and all over the body. The injured claimant filed a claim petition seeking compensation of Rs.1,00,000/- on the ground that the driver of the tractor was responsible for the accident.

3.The claimant has stated that at the time of the accident, her age was 48 and she was vegetable vendor and was earning Rs.3,000/- per month. A criminal case in Crime No.394 of 2011 was registered against the driver of the tractor by Cumbum North 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 tractor was responsible for the accident and awarded compensation of Rs.10,000/- together with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Insurance Company is before this court.

6.Heard the learned counsel appearing for the appellant and perused the materials available on record. There is no representation on behalf of the respondents.

7.Even though, so many grounds were raised in the grounds of appeal, it is mainly contended by the learned counsel for the appellant that the quantum of award is on the higher side, so the quantum is to be reduced.

8.The manner of the accident and the finding on negligence are not in dispute and the appeal is confined only to quantum of compensation awarded by the Tribunal.

9.It is seen from the records that at the time of accident, the offending vehicle was insured with the appellant Insurance Company. PW1 is the injured as well as the eye witness to the accident. A criminal case was registered against the driver of the tractor. Ex.P1 FIR stands registered, based on the complaint given by PW1. Ex.P2 Accident Register would show that the injured has sustained four types of injuries and during treatment, she left the hospital without giving any intimation to the hospital authorities. It is to be noted that in the Accident Register, there is no mention about the injuries sustained by the claimant. Since, the injured herself left the hospital without intimating the hospital authorities, the tribunal has come to the conclusion that the injuries sustained by the injured are simple in nature and hence, no disability can be assessed and accordingly, the tribunal has rightly awarded Rs.10,000/- for the simple injuries sustained by her. 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,



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connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

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To

The Motor Accidents Claims Tribunal/
The Chief Judicial Magistrate, Theni.

Copy to:

The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

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