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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.03.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.NO.3424 OF 2013

AND

M.P.NO.1 OF 2013

M/s.Oriental Insurance Co.Ltd.,
Rep. By its Branch Manager
Branch Office
No.25-C, Arunagiri Complex
III Floor, Bye-pass road,
Hosur-635 109

... Appellant/
Respondent -2.

Vs.

1.V.Chandran

..1st respondent/
Petitioner

2.K.Rathinam

3.P.Devaraj

... Respondents 2 and 3/
Respondents 1 and 3.

PRAYER:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree passed in M.C.O.P.No.1610 of 2007 on 05.02.2013 on the file of learned Motor Accident Claims Tribunal (Chief Judicial Magistrate) At Krishnagiri District.

For Appellant : Mr.J.Chandran

For Respondents : No appearance - for R1
Mr.K.Thiruvengadam for R2.

JUDGMENT

The appellant-Insurance Company has filed this appeal challenging the negligence and quantum of compensation in the Award dated 05.02.2013.



2. The first respondent herein is the injured claimant. He filed MCOP.No.1610 of 2007 claiming a sum of Rs.7,00,000/- for the injuries he sustained in the accident that occurred on 24.02.2007. As per the averments in the claim petition, on 24.02.2007 when the petitioner was travelling in the Tractor-Trailer bearing Reg.No.TN-25-C7966 belonging to one K.Rathinam, who is the 1st respondent before the Tribunal/R2 herein, which is insured with the appellant herein, at Thalam Pudur, Krishnagiri, the driver drove the Tractor in a rash and negligent manner in a rough surface of the road; as a result of which the Tractor-Trailer had capsized and the petitioner, who was travelling with Coconut goods, sustained grievous injuries.

3. Before the Tribunal, the petitioner-claimant and the Insurance Company/R-2/appellant herein, let in evidence, both oral and documentary. After going through the entire evidence, the Tribunal held that the accident took place only due to the rash and negligent driving of the driver of Tractor-Trailer bearing Reg.No.TN-25-C-7966 by relying on the evidence of P.W.1 and the contents of Exhibit A.1.

4. The above finding is based on the evidence and this Court is not inclined to interfere with the same. Accordingly, the finding in respect of negligence is confirmed.

5. Insofar as the injuries sustained by the first respondent/claimant is concerned, the Tribunal has taken into account Ex.A.2-Wound certificate, Ex.A.6- Disability Certificate and the deposition of P.W.2 Dr.D.V.Gandhi who certified that the claimant sustained 40% disability and came to the conclusion that the claimant is unable to perform his work as before and awarded Rs.2,000/- per percentage of disability by reducing the disability from 40% to 38% and awarded Rs.76,000/- towards loss of permanent and partial disability. In addition to the above, the Tribunal awarded the compensation under following heads:-

Sl.No .	Heads under which compensation grated by the Tribunal	Amount of compensation granted in Rs.
1.	For partial disability	Rs.76,000/-
2.	For Pain and suffering	Rs.10,000/-
3.	For Transportation	Rs.5,000/-
4.	For extra nourishment	Rs.5,000/-
5.	For Attendant charges	Rs.5000/-
6.	For damage to clothes and articles	Rs.1,000/-



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Sl.No	Heads under which compensation grated by the Tribunal	Amount of compensation granted in Rs.
7.	For loss of income during the treatment period	Rs.5,000/-
	Total	Rs.1,07,000/-

6. The compensation awarded by the Tribunal cannot be held to be either excessive or arbitrary. But it is a just compensation and in such view of the matter, this Court finds no infirmity in the Award of the Tribunal, warranting any interference and accordingly, the Award passed by the Tribunal is confirmed.

7. By order dated 19.12.2013, this Court while ordering interim stay of operation of the award, directed the appellant-Insurance company to deposit 50% of the Award amount with accrued interest. Since this Court confirmed the Award passed by the Tribunal, the appellant is directed to deposit the balance Award amount with accrued interest and costs. On such deposit, the 1st respondent is permitted to withdraw the amount lying in the deposit along with interest and costs without filing formal petition before the Tribunal.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Krishnagiri District.



2. The Section Officer,
V.R.Section, Madras High Court,
Chennai.

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+1cc to Mr.J.Chandran, Advocate, S.R.No.16371

+1cc to Mr.K.Thiruvengadam, Advocate, S.R.No.16203

C.M.A.No.3424 of 2013

SSD(CO)
PM/31/05/2022