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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1666 of 2014

and

M.P.No.1 of 2014

United India Insurance Co. Ltd.
104-A, Peramanur main road
Peramanur, Salem-7.

..Appellant/2nd Respondent

Vs.

1.Vijay @ Vijayendran

2.San Engineering and LOC Co. Ltd.
P.B.No.4802, White Field Road
Bangalore, Karnataka State.

..Respondents/Claimant & 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.08.2013 made in M.C.O.P.No.1985 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Salem.

For Appellant : Mr.S.Arunkumar
For R1 : Mr.K.S.Karthik Raja
For R2 : No appearance

J U D G M E N T

(This matter is heard through "Video-Conferencing")

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award dated 20.08.2013 made in M.C.O.P.No.1985 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Salem.

2.The appellant is 2nd respondent/Insurance Company in M.C.O.P.No.1985 of 2011 on the file of Motor Accident Claims Tribunal, II Additional District Court, Salem. The 1st respondent filed the said claim petition claiming a sum of Rs.1,50,000/- as compensation for the injuries sustained by him in the accident that took place on 09.09.2010.



3. According to the 1st respondent, on the date of accident i.e., on 09.09.2010 at about 21.00 hours, while the 1st respondent was travelling in the car bearing Registration No. TN-27-T-6814, which was driven by his father, near Neikkarapatty puthur over bridge, the driver of the car belonging to the 2nd respondent bearing Registration No. KA-53-P-726, who was coming from Salem-Sankari direction, drove the same in a rash and negligent manner, broke the road divider, ran over the other side of the road, hit against the car in which 1st respondent travelled and caused the accident. In the accident, the father of the 1st respondent sustained fatal injuries, died in the hospital on the same day and the 1st respondent sustained grievous injuries. Therefore, the 1st respondent filed the above claim petition claiming compensation against the 2nd respondent and the appellant/Insurance Company.

4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to the 2nd respondent and directed the appellant/Insurance Company being insurer of the said car to pay a sum of Rs.75,000/- as compensation to the 1st respondent and dismissed the claim petition as against the 2nd respondent, owner of the car.

5. Questioning the quantum of compensation awarded by the Tribunal, the appellant/Insurance Company has come out with the present appeal.

6. The learned counsel appearing for the appellant/Insurance Company contended that in the accident, the 1st respondent sustained only simple injuries. The Tribunal without considering the same, awarded a sum of Rs.40,000/- towards disability, which is excessive. The amounts awarded by the Tribunal under different heads are also excessive and prayed for setting aside the award of the Tribunal.

7. The learned counsel appearing for the 1st respondent made his submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

8. Though notice has been served on the 2nd respondent and their name is printed in the cause list, there is no representation for 2nd respondent either in person or through counsel.



9. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 1st respondent and perused the entire materials on record.

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10. It is the case of the 1st respondent that at the time of accident, he was studying B-Tech (C.S.) I year in Kings Institute of Tech, Coimbatore. In the accident, he sustained cut injuries on occipital region, eye-brow and multiple abrasions over tibia and left knee. After the accident, the 1st respondent could not do his normal work and could not concentrate in his studies. To prove the same, the 1st respondent examined the Doctor as P.W.2 and marked the x-ray and disability certificate as Exs.P15 and Ex.P16 respectively. P.W.2/Doctor examined the 1st respondent and deposed that he has wound scar on the left eye-brow and back side of head, due to the same, he lost his fairness and assessed the disability at 20%. The appellant/Insurance Company has not let in any contra evidence to disprove the evidence of P.W.2/Doctor and the documents filed by the 1st respondent. The Tribunal considering the nature of injuries and the documents filed by the 1st respondent, awarded compensation under different heads, which are not excessive warranting interference by this Court.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.75,000/- awarded by the Tribunal as compensation to the 1st respondent along with interest and costs is confirmed. The appellant/Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent is permitted to withdraw the entire amount awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. This appeal is dismissed as against the 2nd respondent, owner of the car. Consequently, connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1. The II Additional District Judge
Motor Accidents Claims Tribunal
Salem.

Copy to

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

+1 CC to Mr.S.Arunkumar, Advocate sr 2368

C.M.A.No.1666 of 2014
and
M.P.No.1 of 2014

AJS (CO)
SP(11/03/2022)