



C.M.A.(MD)No.1071 of 2009

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DATED : 07.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

C.M.A.(MD)No.1071 oqf 2009

The Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Tirunelveli.

... Appellant/2nd Respondent

Vs.

1.Kuttithurai
2.A.Ganesan

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and award, dated 30.12.2008 made in M.C.O.P.No.29 of 2006, on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tenkasi.

For Appellant : Mr. S. Veerasamy

For R1 : No appearance

* * * * *

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the



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appellant / Insurance Company against the award, dated 30.12.2008 made in M.C.O.P.No.29 of 2006, on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tenkasi.

2. The 1st respondent / claimant filed the said claim petition in M.C.O.P.No.29 of 2006, on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tenkasi, claiming a sum of Rs.2,00,000/- as compensation, for the injuries sustained by him.

3. According to the 1st respondent / claimant on 21/11/2005, at 11.25 hours, he was travelling in a Milk-van bearing Regn.No.TN 72 U 9614. When the said Van was nearing to Kuthukkal Valasai, it was driven by its driver in a rash and negligent manner and dashed against the bus, bearing Regn.No.TN 67 N 0163 belonging to State Transport Corporation, which came from the opposite direction. In the said accident the first respondent / claimant sustained multiple injuries. Hence, he made the claim petition.

4. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a total sum of Rs.10,000/- as



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compensation.

5. Aggrieved by the said Award, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeal.

6. The learned counsel appearing for the appellant submitted that due to the negligence of the drivers of both the vehicles, the accident has occurred, but, the Tribunal has fixed the liability only against the appellant / Insurance Company. He would further submit that without impleading the necessary parties, the Tribunal has pass an Award and hence, the same is not sustainable.

7. I have heard the learned counsel appearing for appellant and perused all the materials available on record. There is no representation on behalf of the 1st respondent.

8. Based on the evidence and the documents, the Tribunal has observed that the accident has occurred only due to the negligent driving of the driver of the Van belonging to the 2nd respondent and the First Information Report also reveals that a case has been registered only against



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the driver of the Van belonging to the second respondent. Hence, the Tribunal has rightly observed that the accident occurred only due to the rash and negligent driving of the driver of the Van belonging to the 2nd respondent, which was insured with the appellant / Insurance company and fixed the liability only against the appellant and hence, they are only liable to pay compensation. Further, the learned Trial Judge came to the conclusion only after appreciating all the materials on record in a proper perspective and hence, there is no error warranting interference by this Court in such a finding.

9. The Tribunal has awarded as a sum of Rs.5,000/- towards the pain and suffering and a sum of Rs.2,500/- for extra nourishment and another a sum of Rs.2,500/- towards medical expenses. Thus, the Tribunal has awarded a sum of Rs.10,000/- as compensation to the claimant. the compensation of Rs.10,000/- awarded by the Tribunal cannot be said to be on the higher side.

10. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award, dated 30.12.2008 passed by the Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi in M.C.O.P.No.29 of 2006.



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The appellant / Insurance Company is directed to deposit the entire award amount to the credit of M.C.O.P.No.29 of 2006, on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi, less the amount already deposited, if any, along with accrued interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the 1st respondent / claimant is entitled to withdraw the entire amount, with interest by making necessary application before the Tribunal. No costs.

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Index :Yes/No
Internet :Yes/No
trp



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To

1. The Motor Accident Claims Tribunal, Principal Sub Court, Tenkasi.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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A.A. NAKKIRAN, J.,

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