

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.09.2022**

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A(MD)No.1177 of 2009

and

M.P(MD) No.3 of 2009

The Manager,
National Insurance Company Limited,
Gopichettipalayam.

... Appellant

vs.

1.Tmt.Palaniammal
W/o. Kalimuthu

2.Balan,
S/o.Muthupandi

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order and decree dated 08.03.2007 passed in M.A.C.O.P.No.130 of 2001 on the file of the Motor Accidents Claims Tribunal, Sub Court, Palani.

For Appellant : Mr.D.Sivaraman

For R1 : Mr.S.Karthik

For R2 : No appearance

JUDGMENT

This Civil Miscellaneous Petition is filed to set aside the judgment and decree in M.C.O.P.No.130 of 2001, dated 08.03.2007, on the file of the Motor Accidents Claims Tribunal (Sub Court), Palani.

2.The appellant / Insurance Company is the respondent in M.C.O.P.No.130 of 2001. The first respondent / claimant filed the claim petition before the Motor Accidents Claims Tribunal, (Sub Court), Palani, claiming a sum of Rs.1,50,000/- as compensation, for the injuries sustained by her, in the accident that took place on 20.02.2001.

3. The Tribunal, after considering the oral and documentary evidences and arguments made on either side, partly allowed the claim petition and awarded a sum of Rs.41,000/- with 6% interest per annum as compensation to the claimant. Against which, the appellant/Insurance Company has filed this present appeal.

4.I have heard the learned counsel appearing for the appellant and the learned counsel for the first respondent and perused all the materials

available on record.

6. The contention of the appellant is that the Tribunal without appreciating the documentary evidence available, came to the conclusion that the driver of van bearing Registration No.TN-36-A-7880 was responsible for the accident and no independent witness was examined to prove the involvement of the vehicle in the accident. Further, he submitted that the award amount is highly excessive.

7.These contentions are not acceptable. From the materials available on record, it is seen that the Tribunal properly appreciating both oral and documentary evidence and held that the driver of the van is responsible for the accident, which is insured with the appellant/Insurance Company. The Tribunal considering the nature of injuries and percentage of disability, awarded a total sum of Rs.41,000/- as compensation, which is not excessive.

8.In the considered opinion of this Court, the compensation awarded by the Tribunal is just and reasonable compensation and the appellant did not let in any contra evidence to disprove the case. The

appellant has not made out any case for modifying or reducing the compensation as awarded by the Tribunal.

9.In the result, the Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. The appellant / Insurance Company is directed to deposit the entire award amount to the credit of M.C.O.P.No.130 of 2001, on the file of the Motor Accident Claims Tribunal / Sub Court, Palani, less the amount already deposited, if any, along with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, with accrued interest by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

07.09.2022

Index :Yes/No
Internet :Yes/No
cp

To

1.The Motor Accidents Claims Tribunal, Sub Court,
Palani.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.P(MD) No.1177 of 2009

A.A.NAKKIRAN .,J.

cp

JUDGMENT MADE IN
C.M.A(MD)No.1177 of 2009

07.09.2022