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C.M.A.No.78 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.78 of 2013
and M.P.No.1 of 2013

The New India Assurance Co.Ltd.,
11-19, 20, Govt. Arts College Road,
Coimbatore – 18.

...Appellant

Vs.

1. R.Amutha Balan
2. K.Govindaraj
(Set ex parte by the Court)

3. M.Elangovan

...Respondents

PRAYER: The Civil Miscellaneous Appeal filed u/s.173 of Motor Vehicles Act, 1988 against the award made in M.C.O.P.No.297 of 2004, under common judgment delivered on 30.08.2005 in M.C.O.P.No.297 of 2004 (On the file of Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court No.III Coimbatore).

For Appellant : Mr.K.Padnamabhan

For Respondents : Not Ready in Notice [R1]

R2 and R3 Ex parte vide
order dated 27.10.2023



C.M.A.No.78 of 2013

JUDGMENT

WEB COPY The Civil Miscellaneous Appeal has been filed against the award made in M.C.O.P.No.297 of 2004 30.08.2005 on the file of Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court No.III Coimbatore.

2. It is the case of the claimant that on 17.05.2003 while the petitioner in M.C.O.P.No.297 of 2004 was travelling in a Taxi Tag - 06376 at about 2:45 a.m. the driver of the Taxi namely Govindaraj hit against a tree, due to which the claimant along with two other sustained injuries all over the body. Claiming compensation for a sum of Rs.20,00,000/- the claim petition has been filed against the driver of the Taxi.

3. Before the Tribunal, the claimant examined P.W.1 to P.W.5 and marked 45 documents viz., Ex.P.1 to Ex.P.45. The respondents marked R.W.1 and R.W.2 and marked Exs.R1 to R3. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.7,50,000/- as compensation under various heads. Aggrieved by the same, the present



C.M.A.No.78 of 2013

appeal has been filed by the appellant/ Insurance Company.

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4. The learned counsel appearing for the appellant / insurance company submits that though the owner of the vehicle has not obtained a valid permit to ply the vehicle, the Tribunal has awarded the said compensation which is highly excessive. Hence, the third respondent / insurance company is not liable to pay the compensation as awarded by the Tribunal. Accordingly, he prays to allow this appeal.

5. Though the notice were served on the respondents, however, no one appeared on their behalf. Considering the period of pendency of the appeal, it is disposed of based on the materials available on record.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. The learned counsel for the appellant submits that due to the rash and negligent driving of the driver of the taxi the said accident



C.M.A.No.78 of 2013

happened. The issue arises in the present case is whether the claimant is entitled for compensation or not. With regard to the said issue the Tribunal upon perusing the oral and documentary evidence, has rightly concluded as per the provisions of Motor Vehicles Act that whether a person in earning or not, she/he is entitled for compensation on account of any injuries sustained by him/her. Moreso, the award passed by the Tribunal is just and reasonable and the same does not require any interference. Hence, the prayer sought for by the appellant is liable to be dismissed. Therefore, the appellant is directed to pay the entire compensation as awarded by the Fast Track Court No.III, Coimabatore to the credit of M.C.O.P.No.297 of 2004 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent/claimant through RTGS. It is open to the appellant to recover the said compensation from the owner of the vehicle/third respondent in accordance with law.



C.M.A.No.78 of 2013

WEB COPY

8. With the above observation this appeal is dismissed. There shall be no order as to costs in the present appeal. Consequently, connected miscellaneous petition is closed.

31.10.2023

Speaking Order / Non Speaking Order : Yes/No
Index : Yes/No
NCC : Yes/No
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To

1. Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court No.III Coimbatore).
2. The Registrar, City Civil Court, Chennai.



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C.M.A.No.78 of 2013

M.DHANDAPANI,J

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C.M.A.No.78 of 2013

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