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C.M.A.No.2149 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.2149 of 2010

and

M.P.No.1 of 2010

M/s.National Insurance Co. Ltd.,
No.751, Mount Road,
Chennai – 2.

... Appellant

Vs.

1.S.Senthilvelan
2.K.Chinnaponnu

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree passed in M.C.O.P.No.2288 of 2004 on 18.04.2009 on the file of the learned Motor Accident Claims Tribunal IV SCC at Chennai District.

For Appellant : Mr.J.Chandran

For Respondents : Not Ready in Notice

JUDGEMENT

The Civil Miscellaneous Appeal is filed by the appellant/ insurance



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company against the judgement and decree passed by the Motor Accident Claims Tribunal IV SCC at Chennai District in M.C.O.P.No.2288 of 2004, dated 18.04.2009.

2. It is the case of the claimant that, on 24.09.2003 at about 2.15 hours, the claimant was travelling as a passenger in an auto rickshaw bearing Regn.No.TN-01-L-2624 proceeding from south to north, at that time, the driver of the above auto drove the vehicle in a rash and negligent manner and suddenly the auto capsized. As a result, the claimant sustained grievous injuries. Therefore, he filed a claim petition claiming a sum of Rs.3,50,000/- before the Tribunal.

3. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and marked 8 documents viz., Ex.P.1 to Ex.P.8. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal awarded a sum of Rs.1,62,000/- with interest at the rate of 9.5%, directing the insurance company to pay the said compensation to the claimant. Aggrieved by the same, the insurance company has preferred the present



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appeal.

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4. The learned counsel appearing for the appellant/insurance company submitted that, without any materials, the Tribunal awarded compensation in favour of the claimant, which is on the higher side and the same requires to be interfered with. Further, the interest awarded by the Tribunal at 9.5% is also on the higher side, which also requires to be interfered with. Accordingly, he prays for allowing the appeal.

5. Though appeal was filed in the 2010, however, till date, notice was not served on the respondents. Considering the pendency of this appeal, this Court is inclined to dispose of this appeal based on the materials available on record.

6. The accident is not in dispute and the travel of the claimant in the said auto is not in dispute. It is fairly admitted that the auto was insured with the appellant. The Tribunal, on the basis of the oral and documentary evidence adduced, had held that the auto had capsized only due to the rash and negligent driving of the same by its driver. In fact, the appellant/insurance company is also not questioning the rash and



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negligent driving.

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7. The whole case of the insurer is only on the quantum of compensation awarded, which is claimed to be on the higher side. This Court, to consider the same, had perused all the documents, which were marked with regard to the injuries sustained by the claimant. The claimant had taken treatment at the hospital as in-patient and had spent considerable amount on medical bills, which is evident from Ex.P.2, discharge summary. Further, the claimant, having been an agriculturist had suffered loss of earning on account of the injuries. Appreciating all the above and taking into consideration the same, the Tribunal has awarded just and reasonable compensation under the various heads. This Court has carefully gone through the various compensation awarded and is of the considered view that the compensation awarded under the various heads are just and reasonable and cannot be said to be excessive and the same does not warrant any interference at the hands of this Court. However, the interest awarded by the Tribunal is excessive, accordingly, the same is set aside and the interest awarded by the Trial Court is modified as 7.5%.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed and



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the judgement and decree passed by the Motor Accident Claims Tribunal IV SCC at Chennai in M.C.O.P.No.2288 of 2004, dated 18.04.2009 is confirmed. The appellant/insurance company is directed to deposit the amount of compensation quantified by the Tribunal to the credit of M.C.O.P.No.2288 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to disburse the amount directly to the bank account of the first respondent/claimant through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition is closed.

16.10.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

1.The Motor Accident Claims Tribunal IV SCC at Chennai District.



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

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M.DHANDAPANI, J.,

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