



CMA No.998 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.02.2023

PRONOUNCED ON : 20.03.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.998 of 2022
and CMP No.7399 of 2022

SBI General Insurance Company Limited,
2nd Floor, Ward No.A1, Block No.15,
TSO 949-10, D.No.104, Excellence Building,
Race Course Road,
Coimbatore – 600 018.

.. Appellant/3rd respondent

Vs.

1. N.Karthick
2. P.Giriraj
3.B.G.Gulam Mohamed Ismail

... 1st respondent/petitioner

... Respondents 2&3
/Respondents 1 & 2

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award dated 17.09.2021 passed in MCOP No.943 of 2016 on the file of the Motor Accident Claims Tribunal [Special Sub Judge], Coimbatore.

For Appellants : Mr.N.Somasundar
For Respondents : Mr.Ma.P.Thangavel (for R1)
Mr.A.Parthasarathy (for R2)
No appearance (for R3)



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JUDGMENT

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Insurance company/3rd respondent, is the appellant herein, challenging the judgment and decree of the Motor Accident Claims Tribunal (Special Sub Judge), Coimbatore, dated 17.09.2021 made in MCOP No.943 of 2016, on the ground of quantum as well as on negligence.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. The 1st respondent herein filed the above MCOP claiming compensation for the grievous injuries sustained by him, in the road accident happened on 02.05.2016.

4. Heard the learned counsel on either side and perused the materials available on record.

5. It is the specific case of the claim petitioner as PW1 that on the fateful day, while he was moving in TATABAD area in Coimbatore, in his two wheeler, some unknown persons started attacking him and when he was



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trying to escape from the persons, hit against the Omni car bearing Regn.No.TN43-A-0759, driven by the 1st respondent in a rash and negligent manner and thereby, sustained grievous injury. He has filed Ex.P1 to Ex.P7. On behalf of the respondents, no oral or documentary evidences, were let in.

6. On perusal of Ex.P3-sketch, it gives a clear idea and also supports the case of the claim petitioner. It remains to be stated that as per Ex.P6-Final Report, charge sheet has been filed against the vehicle insured with the appellant-Insurance company and infact the driver of the offending vehicle/1st respondent, has pleaded guilty in STC No.526 of 2016 for the alleged offence under Sections 279 and 338 IPC, before the learned Judicial Magistrate-VIII, Coimbatore and paid fine.

7. Hence, this Court finds that when the accused pleads guilty and is convicted based on his admission, the judgment of the criminal Court becomes admissible and relevant in civil proceedings and as well as in the proceedings before the Motor Vehicles Claims Tribunal. The judgment of the criminal Court is to be taken into consideration as a document containing the admission. Though the admission is not a conclusive proof of the facts



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admitted therein, it is for the party to prove. Unless and until it is proved to be incorrect and false by the person against whom the admissions are sought to be used as evidence and unless it is refuted either by oral or documentary evidence, such a document administering the admission, shall be treated as a piece of evidence. Accordingly, the trial Court has rightly come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the vehicle/1st respondent, insured with the appellant-Insurance company.

8. Further, the trial Court has also appreciated Ex.P5-wound certificate, wherein at the time of the admission in the hospital, the injured claim petitioner himself has allegedly stated that he has been assaulted by unknown persons with hard material over head and caused head injury near the fish shop, Sivanandha Colony, Coimbatore and also taking note of the fact that at the time of the accident, he was escaping the attack and assault by the unknown persons, he ought to have taken due care in not dashing against the other vehicles or avoided the other vehicles dashing against him. Therefore, taking into consideration the entirety of the circumstances, the claims tribunal has come to the conclusion that the claim petitioner/injured



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person has contributed to the accident to an extent of 50%.

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9. From the above, I find that the discussions made by the tribunal on the basis of Ex.P5-wound certificate and answer elicited by the insurance-company during the cross examination of the PW1, has rightly appreciated the same and fixed the contributory negligence at the ratio of 50 : 50, among the injured claim petitioner and the driver of the offending vehicle/1st respondent and the said finding does not suffer from any irregularity or illegality, warranting interference at the appellate stage and accordingly, such a finding is hereby confirmed.

10. On the point of quantum of compensation, after perusing the grievous injuries sustained and the quantum of compensation awarded for the injuries, that has be sustained due to the accident and not with regard to the assault as projected by the appellant-insurance company, I find that the compensation of Rs.93,211/- awarded by the tribunal, does not require any interference and the same is confirmed.

11. Accordingly, the judgment and decree of the Motor Accident



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Claims Tribunal (Special Sub Judge), Coimbatore, dated 17.09.2021 made in MCOP No.943 of 2016, is confirmed and the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

20.03.2023

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No.
ars

To

The Special Sub Judge,
Motor Accident Claims Tribunal, Coimbatore.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery Judgment in
CMA No.998 of 2022

20.03.2023