



CMA.No.1742 of 2019

101IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.1742 of 2019

CMP.No.5509 of 2019

New India Assurance Co.Ltd.,
Rep. by its Branch Manager,
14/7, KG Complex, Bagalur Road,
Hosur.
veranda

... Appellant/2nd respondent

-Vs-

1. S.Sivaraman
2. R.M.Santhi

... Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 10.11.2014 in MCOP.No.2469 of 2013 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

For Appellant	: Mr.E.Rajadurai for Mr.N.Vijayaraghavan
For Respondent	: No appearance



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JUDGMENT

WEB COPY The appeal on hand is filed against the judgment and decree dated 10.11.2014 passed in MCOP No.2464 of 2013, on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge, Krishnagiri.

2. The New India Assurance Company Limited is the appellant, who filed this appeal questioning the quantum of compensation.

3. On 26.08.2012, after attending some function at Karaikudi, the petitioner along with her husband and her son were returning to their house in a Car bearing Reg.No.TN-70-A-7814, belonging to the first respondent/claimant and insured with the appellant, at about 22.00 hours, when they were proceeding opposite to Kurunji Nagar Check Post in Salem-Dharmapuri road, an unknown lorry was going in the front side of the respondents/claimants and the driver of the lorry without any signal suddenly came from right side to left side of the road. In order to avoid the direct hit against the lorry, the first respondent husband swerved the car, but unfortunately the car capsized in the left side pit. Due to the sudden impact, the first and second respondents/claimants have sustained injuries and they were taken to Government Dharmapuri Medical College



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Hospital and after first Aid, they were taken to the Live 100 hospital, Bangalore and admitted there as inpatient on 26.08.2012.

4. Hence, the first and second respondents claimed compensation for a sum of Rs.5,00,000/- and Rs.5,00,000/- respectively. Insofar as the compensation awarded by the Tribunal to the second respondent/claimant is concerned, the appellant/Insurance company has no objection. Insofar as the compensation awarded by the Tribunal to the first respondent/claimant is concerned, the appellant/Insurance company has filed this appeal against the judgment and decree in MCOP.No.2469 of 2013 dated 10.11.2014.

5. The learned counsel appearing on behalf of the appellant/Insurance Company mainly contended that the quantum of compensation granted by the Tribunal is exorbitant and the Tribunal has failed to consider that the second respondent's husband has driven the car with great speed at uncontrollable speed and the accident was caused due to the rash and negligent driving of the car. For the aforesaid reasons, the award is liable to be dismissed.



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A.A.NAKKIRAN, J.

mp

6. It is seen from records that the Doctor was examined as PW2 and he has filed proof affidavit in the Lower Court. In the proof affidavit as well as in the Disability Certificate [Ex.P16], the doctor has stated that he has perused the Discharge summary and he has physically examined the petitioner and upon perusal of X-ray[Ex.P15], the doctor assessed the disability of the first respondent as 45% and the appellant/Insurance Company has not examined any expert to disprove the percentage of disability issued by PW2. Hence, the compensation awarded by the Tribunal is justified.

Accordingly, the Criminal Miscellaneous Application is dismissed. No costs. Connected miscellaneous petition is closed.

20.03.2023

mp

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

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