



C.M.A(MD)No.1686 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:26.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 1686 of 2013

and

M.P(MD)No.1 of 2013

The New India Assurance Company Limited,
Divisional Office,
Rekha Towers 2nd Floor,
No.248B, Kamarajar Road,
Madurai – 625 009.

...Appellant

Vs.

1. Selvakumar
2. M.Subramanian
3. Esakki
4. United India Insurance Company Limited,
No.50/1, S.N. High Road,
Tirunelveli Junction.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, challenging the Award and Decree, dated 03.09.2013 made in M.C.O.P. No.56 of 2006 on the file of the Motor Accident Claims Tribunal/IV Additional Sub Court, Madurai.

For Appellant : M/s.B.Vijay Karthikeyan

For Respondents : No appearance



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JUDGEMENT

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The Insurance Company has filed this Civil Miscellaneous Appeal, challenging the Award, dated 03.09.2013 passed in M.C.O.P.No. 56 of 2006 on the file of the Motor Accident Claims Tribunal/IV Additional Sub Court, Madurai.

2. It is a case of injury. The claimant was driving two-wheeler and the offending vehicle is also a two-wheeler.

3. The nature of accident is that without any indication the claimant turned to the right side. Therefore, the offending vehicle which was coming behind had hit the claimant's vehicle. In the said accident, the claimant has suffered injury, fractured his leg and grievous injury on his fore arm and injured all over body. Considering the same, the Tribunal has granted a sum of Rs.1,36,000/- as compensation.

4. The contention of the Insurance Company is that since First Information Report was filed against the claimant who is a Tortfeasor, then liability ought to be fixed on the Tortfeasor and



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consequently the insurance company is not liable for paying the compensation.

5. On perusing the nature of accident, it is seen that the offending vehicle has not keeping proper distance. Therefore, this Court is not inclined to consider the contention of the Insurance Company. However, the claimant has turned without any indication and therefore, contributory negligence ought to be fixed on the claimant as well.

6. In order to meet the ends of justice, this Court is fixing a sum of Rs.1,00,000/-as compensation. Further, the Tribunal has fixed 8% interest the same shall be reduced into 7.5%. At the time of admission, the Appellant has deposited a sum of Rs.80,000/-.

7. Accordingly, the Appellant is directed to pay a sum of Rs.1,00,000/- as compensation, along with 7.5% interest with Cost, within a period of 8 weeks from the date of receipt a copy of the order, less the amount if already deposited. On such deposit, the claimant is permitted to withdraw the same, as per law.



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8. With the above observations, this Civil Miscellaneous

Appeal is partly allowed. No Costs. Consequently, connected petition is closed.

26.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA



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To

1. The Motor Accident Claims Tribunal/
IV Additional Sub Court, Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Order made in
C.M.A(MD)No. 1686 of 2013

26.04.2024