



C.M.A.(MD)No.387 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **12.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.387 of 2013
and M.P(MD)No.1 of 2013

New India Insurance Co. Ltd.,
Fitwel House (above Punjab & Synd Bank)
LBS Mark, Vikhroli (West),
Mumbai – 400 083

... Appellant/2nd Respondent

Vs.

1.M.Basheer Ahamed

...Respondent No.1/Petitioner

2.Sunil Anant Patil

..2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.01.2009 passed in M.C.O.P.No.1961 of 2004 on the file of the Motor Accident Claims Tribunal, III Additional Sub Court, Trichy.

For Appellant : Mr.N.Dilip Kumar
For R1 : Mr.T.Senthilkumar

JUDGMENT

The instant appeal has been filed challenging the finding on negligence and quantum of compensation.



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2.The 1st respondent/claimant filed a claim petition stating that while the deceased was riding his motorcycle along with the pillion rider, a car insured with the appellant came in a rash and negligent manner and dashed against the motorcycle and caused grievous injuries to the claimant.

3. The 2nd respondent herein, who is the owner of the offending vehicle, remained exparte before the Tribunal.

4. The appellant filed a counter stating that the accident did not take place in the manner alleged in the claim petition; that it was the pillion rider by the name Anand, who was in an inebriated condition, who rode the two-wheeler; that the driver of the car insured with the appellant is not guilty of rash and negligent driving; and that in any case, the compensation claimed was excessive.

5. The claimant examined P.W.1 to P.W.3 and marked Ex.P.1 to Ex.P.12. The appellant examined R.W.1 and marked Ex.R.1 and Ex.R.2.

6. The Tribunal, after taking into consideration the oral and



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documentary evidence, held that the accident took place only due to the rash and negligent driving of the driver of the insured vehicle and directed the appellant to pay the compensation of Rs.98,595/-.

7. The learned counsel for the appellant submitted that the averments in the claim petition are false; that the deceased, who was shown as the pillion rider, was the actual rider; that he was in an inebriated condition; and hence, the finding on negligence by the Tribunal has to be set aside. He would further submit that the compensation awarded by the Tribunal is also excessive.

8. The learned counsel for the 1st respondent/claimant, per contra, submitted that the award of the Tribunal is justified and there is no reason to interfere with the award.

9. This Court gave its anxious consideration to the submissions made by the learned counsel for the appellant and the learned counsel for the respondent No.1 and carefully perused the materials available on record.



10. The points for consideration in the instant appeal are as follows:

- a) Whether the finding on negligence by the Tribunal is justified; and
- b) Whether the compensation awarded by the Tribunal is just and reasonable.

11. As regards the first point, it is seen that the claimant had examined himself as P.W.2 and had proved the manner of accident; that he also marked Ex.P.1 to corroborate his version; that the appellant had not produced any contra evidence to disprove the evidence adduced on the side of the claimant; and hence, the finding of the Tribunal that the accident took place only due to the rash and negligent driving of the driver of the insured vehicle is justified. The point No.1 is answered accordingly.

12. As regards the quantum of compensation, it is seen that the respondent No.1 had established that he had suffered disability to the extent of 35%. The Tribunal had awarded Rs.70,000/- for the disability, had awarded Rs.16,595/- towards medical expenses and awarded compensation under other conventional heads. Hence, the total



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compensation at Rs.98,595/- is reasonable and hence, confirmed. The point No.2 is answered accordingly.

13. The learned counsel for the appellant shall deposit the entire compensation amount with accrued interest at the rate of 7.5% from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The respondent No.1/ claimant is permitted to withdraw the same by filing a suitable application before the Tribunal.

15. In the result, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.09.2024

Index : Yes / No

Neutral Citation : Yes / No

CM

To

1. Motor Accident Claims Tribunal, III Additional Sub Court, Trichy.

2. The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court,

Madurai.



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.387 of 2013
and M.P(MD)No.1 of 2013

12.09.2024