



C.M.A(MD)No.187 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.187 of 2017

and

C.M.P(MD)No.2068 of 2017

The Oriental Insurance Co.Ltd.,
Represented by its Branch Manager. ... Appellant/Respondent

Vs.

Satheeshkumar ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, to set aside the award, dated 10.07.2012 made in M.C.O.P.No.87 of 2011 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Kanyakumari.

For Appellant : Mr.S.Veeranasamy

For Respondent : Mr.K.Vamanan

JUDGMENT

The present appeal has been filed by the Insurance Company challenging the award passed in M.C.O.P.No.87 of 2011 on the file of Motor Accident Claims Tribunal / Chief Judicial Magistrate, Nagercoil primarily on the ground of liability.



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2. According to the injured claimant, while he was riding a two wheeler insured with the appellant Insurance Company, he skid and fell down on the side of the road and sustained injuries. For the said injuries, the claimant has sought for a compensation of Rs.2,70,189/-.

3. The Insurance Company has filed a counter contending that the claimant being the insured person, he is only entitled to be indemnified for his liability towards third parties and he cannot seek compensation for his own injuries from the Insurance Company. The tribunal after considering the submissions on either side, has arrived at a finding that in view of Personal Accident Coverage, the Insurance Company is liable to pay the compensation and has proceeded to award a total compensation of Rs.1,61,898/-. Challenging the said award, the present appeal has been filed.

4. According to the learned counsel appearing for the appellant, even assuming that the Personal Accident Coverage is there, it can extend only to an extent of Rs.1,00,000/-, that too only in the cases of fatal accident. The claimant being an injured person, he is not entitled to receive a sum of Rs.1,00,000/-.



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5. Per contra, the learned counsel appearing for the respondent/claimant had contended that he had paid a sum of Rs.50/- towards premium for Personal Accident Coverage and the Personal Accident Coverage is to an extent of Rs.1,00,000/- and therefore, the award amount may be sustained.

6. I have carefully considered the submissions made on either side and perused the material records.

7. The tribunal has arrived at a specific finding that the claimant being the owner of the two wheeler, he cannot be considered to be a third party to the Insurance Policy. However, has proceeded to award compensation only based upon the Personal Accident Coverage. It is an admitted fact that the owner had got a Personal Accident Coverage to an extent of Rs.1,00,000/-. The tribunal was not right in directing the Insurance Company to pay a sum of Rs.1,61,898/-. Therefore, this Court is inclined to restrict the award to a sum of Rs.1,00,000/- granting liberty to the claim petitioner to move the appropriate forum for seeking compensation for the own damage.

8. In view of the above, the award of the tribunal is modified form Rs.1,61,898/- (Rupees One Lakh Sixty One Thousand Eight Hundred



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and Ninety Eight only) to Rs.1,00,000/- (Rupees One Lakh only) which would carry an interest at the rate of 7.5% from the date of filing for the claim petition. The entire award amount shall be deposited, if not already deposited, within a period of eight (8) weeks from the date of receipt of copy of this order.

9. In view of the above said deliberations, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.04.2024

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

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To

- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Kanyakumari.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.187 of 2017

24.04.2024