

(2015) 03 MAD CK 0176

In the Madras High Court

Case No : C.M.A. (MD) Nos. 1196 and 1197 of 2010 and M.P. (MD) Nos. 1 and 1 of 2010 and 1 and 1 of 2015

New India Assurance Co. Ltd.

APPELLANT

Vs

M.R. Chandrasekaran and Others

RESPONDENT

Date of Decision : 10-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0176

Hon'ble Judges : D. Hari Paranthaman, J.

Bench : Single Bench

Advocate : A.K. Baskarapandian, for the Appellant; C. Godwin, Advocates for the Respondent

Final Decision : Disposed off

Judgement

D. Hari Paranthaman, J.—The first respondent in these appeals are the claimants in MCOP Nos. 193 and 194 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional District Court / F.T.C. No.1, Madurai.

2. On 19.01.2000, the claimants travelled in a Bajaj M80 Motorcycle bearing Registration No.TN-59-J-9568. At that time, another two-wheeler namely, Hero Honda bearing Registration No.TN-58-2219 came from the opposite direction and hit the vehicle in which the claimants were travelling, due to which the claimants got injured. The Hero Honda motorcycle was rode by Mr. Ganesh. They filed a claim petition before the Tribunal. Since the rider as well as the pillion rider got injured, by a judgment and decree dated 21.12.2009, the Tribunal granted a sum of Rs.77,000/- as compensation in MCOP No. 193 of 2001 in respect of pillion rider and a sum of Rs.77,500/- as compensation in MCOP No. 194 of 2001 in respect of the rider of the vehicle. The Hero Honda motorcycle was insured with the appellant.

3. The appeals are filed questioning the liability to pay the compensation and also the quantum.

4. As far as the liability is concerned, the only argument of the learned counsel for the appellant is that the vehicle, ie., the Hero Honda motorcycle did not involve in the accident and he found fault with the finding of the Tribunal that the Hero Honda motorcycle that was insured with the Insurance Company involved in the accident. But on a perusal of the award, I am of the view that the submission made by the learned counsel for the appellant has no basis.

5. In paragraph-8 of the judgment of the Tribunal, the Tribunal has considered the issue in detail on the basis of the evidence of the Head Constable who investigated the crime. The relevant passage in paragraph-8 is extracted hereunder:

6. It is the fact that the concerned police, after having investigation has found that the vehicle that was insured with the appellant involved in the accident. It is also the fact that the person who rode the said said motorcycle pleaded guilty. In these circumstances, I do not find any error or infirmity in the judgment of the Tribunal and there is nothing wrong in the Tribunal fastening the liability on the appellant Insurance Company.

7. The appellant Insurance Company has also questioned the quantum of compensation awarded by the Tribunal by stating that the same is excessive.

8. The compensation awarded in respect of MCOP No. 193 of 2001 are detailed as under:

Even though the award comes to Rs.78,600/-, the Tribunal has fixed only a sum of Rs.77,000/-. There is an arithmetical mistake in computing the compensation. Just because there is an arithmetical mistake committed by the Tribunal, the claimant could not suffer. Hence, I am of the view that the compensation to be awarded to the claimant would be Rs.78,600/- and not Rs.77,000/-. Accordingly, the compensation fixed by the Tribunal stands modified to Rs. 78,600/-. As far as the appellant is concerned, he is not able to pin point as to how the aforesaid amount is excessive, though he has vaguely suggested that the amount is excessive. Hence, the submission of the learned counsel for the appellant is rejected and a sum of Rs.78,600/- with interest at 7.5% p.a., from the date of petition is awarded as compensation.

9. The compensation awarded in respect of MCOP No. 194 of 2001 are detailed as under:

The rider of the motorcycle suffered 38% disability. He was awarded a sum of Rs.57,000/- for 38% disability. As far as the appellant is concerned, he is not able to pin point as to how the aforesaid amount is excessive, though he has vaguely suggested that the amount is excessive. Hence, the submission of the learned counsel for the appellant is rejected and the award of Rs.77,500/- with interest at 7.5% p.a., from the date of petition is confirmed.

10. In the result, C.M.A.(MD)No.1196 of 2010 is disposed of with the above modification in compensation and C.M.A.(MD)No.1197 of 2010 is dismissed. No

costs. Consequently, the connected miscellaneous petitions are closed. The appellant is directed to deposit the modified compensation with regard to C.M.A. (MD)No. 1196 of 2010, and the amount of compensation as determined by the Tribunal in C.M.A.(MD)No.1197 of 2010 with interest, less the amount if any already deposited, to the credit of the respective MCOPs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective amounts.