



C.M.A(MD)No.1301 of 2009

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1301 of 2009

The Divisional Manager,
United India Insurance Company Limited,
Railway Feeder Road,
Virudhunagar.

... Appellant/2nd Respondent

Vs.

1.Jayavel

... Respondent/Petitioner

2Karthikeyan

... Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree in M.C.O.P.No.259 of 2004, dated 25.10.2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Virudhunagar.

For Appellant : Mr.J.S.Murali

For Respondents : No Appearance



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JUDGMENT

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The present appeal has been filed by the insurance company challenging the award passed by the Motor Accident Claims Tribunal, Virudhunagar in M.C.O.P.No.259 of 2004 primarily on the ground of liability and quantum.

2. According to the injured claimant, he was a pillion rider in a two wheeler and it was driven in a rash and negligent manner by the rider, namely Sabarigiri and he was thrown away from the said vehicle and he had sustained grievous injuries. He claimed a sum of Rs.4,00,000/- towards compensation.

3. The owner cum rider of the vehicle had remained ex parte and the insurance company had filed a counter contending that the rider of the motor bike was no way responsible or connected with the alleged accident and also disputed the injuries sustained by the claimant in the said accident.

4. The tribunal after considering the oral evidence of P.W.1, namely the claimant, came to a conclusion that the accident has happened



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only due to the rash and negligent driving on the part of the rider of the two wheeler. The tribunal relied upon Exhibit P.1/F.I.R, Exhibit P.4/charge sheet and Exhibit P.5/judgment of the Criminal Court, dated 28.08.2003 and arrived at the above said finding. This Court does not find any reason to interfere in the said finding of the tribunal with regard to the rash and negligent driving on the part of the rider of the two wheeler.

5. The learned counsel appearing for the appellant had contended that the quantum has been fixed by the tribunal on a higher side. The tribunal has fixed a sum of Rs.40,000/- for 20% disability, a sum of Rs. 20,000/- towards pain and suffering, a sum of Rs.2,000/- towards transportation charges, a sum of Rs.2,000/- towards extra nourishment. Based on Exhibits P.8 and P.9 medical bills, a sum of Rs.53,153/- has been awarded. Totally, a sum of Rs.1,17,153/- has been awarded.

6. The learned counsel appearing for the appellant had further contended that the delay in registering the F.I.R creates suspicion with regard to the manner of accident. However, the tribunal has arrived at a finding that immediately after the accident, the injured claimant has got



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admitted in the hospital and priority has to be given only for admission into the hospital and only on a later point of time, F.I.R came to be registered. This Court does not find any reason to disturb the said finding.

7. In the said accident, the claimant has sustained fractures in the floor of maxible extending into pre-maxible. He has also sustained multiple comminuted fractures in the anterior and posterior of walls of maxillary antrum. There are fractures in the nasal bones and nasal septum also. Therefore, considering the injuries sustained by the claimant and the treatment taken by the claimant which is reflected through Exhibits P.6 to P.10, this Court does not find that the quantum of award is either excessive or unreasonable under anyone of the heads.

8. Hence, this Civil Miscellaneous Appeal stands dismissed. No costs.

07.06.2023

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

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To

- 1.The Motor Accident Claims Tribunal,
Additional District Judge, Fast Track Court,
Virudhunagar.
- 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
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