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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1826 of 2016

S.Manimuthu

...Appellant/Respondent/
Owner of the Vehicle

/versus/

Vigneshwaran

...Respondent/Petitioner/Claimant

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to set aside the Judgment and Decree dated 17.04.2015 passed in M.C.O.P.No.649 of 2008 on the file of Motor Accident Claims Tribunal, Sub Court at Rasipuram.

For Appellant : Mr.Lokesh
for Mr.MA.P.Thangavel

For Respondent : Mr.S.R.Varun Karthik
for Mr.C.Jagadish

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel for the appellant and the learned counsel for the respondent.

2. This appeal is preferred by the owner of the vehicle challenging the award passed by the Motor Accidents Claims Tribunal fastening the liability on the vehicle owner, since the vehicle was not duly insured.

3. The facts of the case is that on 12.10.2007 at about 7.30 p.m., when the claimants was riding his two wheeler and proceeding on the Vennanthur-Mallur road near Annamalaipatti, the tractor bearing registration No. TN 65 F 3195 came in the opposite direction rash and negligently. The door of the trailer was not properly fastened, therefore it disjoint from the trailer and fall on the claimant head causing grievous injury. The claimant was admitted in the hospital and treated for 20 days spend around Rs.65,000/- for medical expenditure. The claim petition against the owner of the tractor was filed seeking a sum of Rs.13,40,000/- restricted to Rs.10,00,000/-.



4. The tractor owner filed counter denying his liability and involvement of the trailer. After examination of the witnesses, the Tribunal has awarded a sum of Rs.1,96,000/- as compensation to the claimant payable by the owner of the tractor. Aggrieved by that, the present appeal is filed by the owner of the vehicle.

5. In this appeal it is contended that the delay in filing FIR was not taken note by the Tribunal. The FIR contains embellished information contrary to the truth and the involvement of the trailer was a imaginary addition and further contended that the compensation awarded by the Tribunal is highly excessive.

6. On perusing the evidence both oral and documentary, this Court finds that the injured was admitted in the hospital on 12.10.2007 immediately after the accident and he was discharged on 31.10.2007 surgery was conducted on 13.10.2007 and 23.10.2007 for the injury sustained by him. Though there is a delay in FIR, the claimant has explained the cause for delay. The Tribunal has accepted the said delay and proceeded to ascertain the negligence on the part of the tractor driver. The evidence of R.W.4, R.W.5 Jaganadhan and R.W.6 Malarvizhi has been considered by the Tribunal to negative the contention of the claimant/vehicle owner.

7. On considering the medical bill and wound certificate, which were marked as Ex. P-5 and Ex.P-6 and discharge certificate Ex. P-2 series, the Tribunal has arrived at a compensation of Rs.1,96,000/- for 40% partial permanent disability sustained by the claimant, this court finds that no merit in this appeal to interfere with the quantum of compensation awarded by the Tribunal to the claimant.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No order as to costs. The appellant herein is directed to deposit the award amount with interest as ordered by the Tribunal within a period of twelve weeks from the date of receipt of copy of this order. On such deposit the claimant/respondent is permitted to withdraw the same filing appropriate petition.

Sd/-
Assistant Registrar(CS-IV)

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Sub Assistant Registrar



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To

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1.The Motor Accident Claims Tribunal,
Subordinate Judge, Rasipuram.

2.The Section Officer,
V.R.Section, High Court, Madras.

+lcc to Mr.C.Jagadish, Advocate, S.R.No.33743

+lcc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No.33427

C.M.A.No.1826 of 2016

RGN (CO)
CB(01/09/2021)