

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.505 of 2016

Rengan

.. Appellant/Petitioner

Vs.

1.Venkatesan

2.Senthilkumar

(Notice to R1 and R2 may be dispensed with for the time being since they were set ex parte before the tribunal and separate petition filed for dispense with)

3. Iffco-Tokiyo General Insurance Company Limited,
Tulsi Chambers, 3rd floor, 195, T.V.Samy Road(West),
R.S.Puram, Coimbatore - 641 002

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 as amended by Act 54 of 1994, to set aside the order made in M.C.O.P.No.153 of 2011 on the file of the Motor Accident Claims Tribunal Cum Subordinate Court, Sankari 24.06.2015 and for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondents: Mr.K.Poomalai[For R3]
R1 & R2 - Exparte

J U D G M E N T

The civil miscellaneous appeal is filed against the judgment and decree dated 24.06.2015 passed in M.C.O.P.No.153 of 2011.

2. The claim petition is filed on account of the injuries sustained by the appellant/claimant in an accident occurred on 20.10.2007 at about 7.00 pm at Konganapuram to Sankari Main Road. Idappadi Police Station registered a case in Crime No.489/2007 under Section 279 and 337 IPC.

3. As per the claim petition, the petitioner has stated that he was permanently disabled and sustained grievous injuries. However, at the time of trial, the Tribunal has made a categorical finding that the accident took place on account of the negligence on the part of the 1st respondent in the M.C.O.P. namely Mr.Venkatesan, who was driving the vehicle. As far as the quantum of compensation with reference to Point No.2 is concerned, the Tribunal has considered the evidence of the Doctor, Accident Register as well as the conduct and other related facts. The copy of the Accident Register, Ex.P2 shows that the petitioner absconding against the medical advice of the Government Hospital Doctor and under those circumstances, the Doctor was not in a position to provide any information regarding the treatment undergone by the appellant/claimant. The Doctor, who treated the appellant had not issued any certificate or opinion. Contrarily, at the time of filing of the claim petition, P.W.2 Dr.Krishnasamy, issued a certificate and he was examined before the Tribunal. P.W.2 Dr.Krishnasamy, who did not provide any kind of treatment to the petitioner, deposed that as per the Accident Register, the appellant sustained grievous injury. During the cross examination, P.W.2 Dr.Krishnasamy said that the petitioner sustained one simple injury and one fracture, which were mentioned in the wound certificate. P.W.2 Dr.Krishnasamy further admitted that no opinion was given in the wound certificate.

4. Therefore, the Tribunal has disagreed the disability certificate Ex.P6 issued by P.W.2 Dr.Krishnasamy. This Court is of the considered opinion that with reference to the Medical certificate against the credibility of the disability certificate is to be established by the claimant before the Tribunal. Once, the credibility of the Medical certificate is shaken, then the Tribunal is right in not awarding the compensation with reference to the claim for grievous injuries. This apart, Ex.P2 Accident Register maintained by the Government Hospital shows that the appellant/claimant had absconded against the medical advise and under those circumstances, the Doctor, who treated the appellant was not in a position to offer any information regarding the treatment taken. This being the factum, the Tribunal is right in disbelieving the evidence of P.W.2 Dr.Drishnasamy as well as the disability certificate issued by him.

5. Doctors, who all are performing a Noble Profession are expected to be genuine and trustworthy. However, the fact remains contrarily and such medical certificates are obtained without any credibility and therefore, the Courts are bound to asses the trustworthiness and credibility of such disability certificates issued by the Doctors.

6. This being the factum, the appellant has not established before this Court that he is entitled for enhancement for compensation and the Tribunal has not committed any perversity and evidences and the documents considered by the Tribunal as well as the findings arrived are in consonance with the facts and circumstances as well as the legal principles settled.

7. Thus, this Court is not inclined to interfere with the award and accordingly, the judgment and decree dated 24.06.2015 passed in M.C.O.P.No.153 of 2011 is confirmed and the Civil Miscellaneous Appeal in C.M.A.No.505 of 2016 stands dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Kak
To

1.The Subordinate Court,
(Motor Accidents Claims Tribunal),
Sankari

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

+1 CC to Mr.C.Kulanthaivel, Advocate sr 19215
+1 CC to Mr.K.Poomalai, Advocate sr 18680.

RJI (CO)
SP(01/09/2020)

C.M.A.No.505 of 2016

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