

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.Nos.1205 & 1206 of 2017

K.Sivakumar ..Appellant in C.M.A.No.1205 of 2017

P.Sankaran ...Appellant in C.M.A.No.1206 of 2017

Vs.

1.M.Dhanasekaran

2.M/s.The New India Assurance Company Limited.,
Parimalam Complex, No.11,
E.V.N.Road, Erode-11. ..Respondents in both C.M.A's

Prayer : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 26.02.2010 made in M.C.O.P.Nos.1370 & 1405 of 2004, on the file of the Motor Accident Claims Tribunal/Fast Track Court, Namakkal.

For Petitioner : Mr.MA.P.Thangavel
in both C.M.A's

For Respondents : R1-Ex-parte
in both C.M.A's Mr.J.Chandran for R2.

J U D G M E N T

The appeals are filed mainly challenging the quantum of compensation as well as the negligence aspect.

2. The accident occurred on 01.11.2004 at about 6.30 p.m. in front of Andavar Mill near Elumalaiyan Weight Bridge in Namakkal to Thiruchengodu Main Road. The claimants state that they sustained multiple grievous injuries. However, the findings of the Tribunal reveal that there is no fracture, but the claimants sustained injuries and had taken treatment. The Doctor fixed the disability as 10% and the Tribunal has reduced the same as 3%. On perusal of the entire findings, it is seen that

the Tribunal has considered the factum regarding the accident and accordingly, arrived at a conclusion that the Insurance Company is liable to pay compensation.

3. Though the point of negligence has been taken in this appeal, this Court is of the considered opinion that the nature of the injuries do not require any such deep consideration regarding negligence aspect. The Doctor himself assessed disability as 10% and under these circumstances, no purpose would be served in the event of considering the negligence aspect. The Tribunal considered the nature of the injuries sustained by the claimants and accordingly, granted a sum of Rs.19,520/- in M.C.O.P.No.1370 of 2004 and a sum of Rs.31,920/- in M.C.O.P.No.1405 of 2004. Thus, this Court do not find any perversity or infirmity as the injuries sustained by the claimants are not so serious warranting enhancement of compensation and further, there is no disability or otherwise and accordingly, the judgment and decree dated 26.02.2010 made in M.C.O.P.Nos.1370 & 1405 of 2004 are confirmed and the Civil Miscellaneous Appeals stand dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssb

To

The Presiding Officer,
Motor Accident Claims Tribunal/
Fast Track Court, Namakkal.

+1cc to Mr.J.Chandran, Advocate, S.R.No. 23471

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 23430

C.M.A.Nos.1205 & 1206 of 2017

VSN II(CO)
GN(10/12/2020)