



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3072 of 2021

K.Vijayakumar

... Appellant/Petitioner

Vs.

1.M.Dhanamanikandan

2.M/s United India Insurance Company Ltd.,
No.23/1, Syndicate Bank Upstair,
Bye-pass Road (Sankari Road)
Pallipalayam,
Namakkal District 638 006.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the judgment and decree dated 26.07.2019 made in MCOP No.61 of 2019 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court at Namakkal and to enhance the award amount.

For Appellant : Mr.M.Lokesh

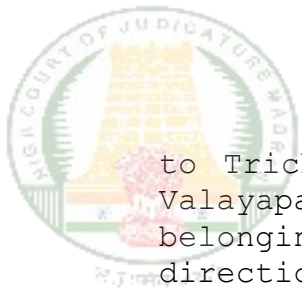
For Respondents : Mr.R.Sree Vidhya (for R2)
R1 - Exparte

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

The appellant challenges the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate at Namakkal in MCOP No.61 of 2019 dated 26.07.2019.

2.The claimant has come up with this appeal seeking enhancement of compensation. This is the case of injury. The case of the claimant is that on 13.08.2017 at 09.10 p.m, he was riding his TVS motorcycle bearing Reg.No.TN-88-A-2304 on Namakkal



to Trichy Road. While he was nearing serlin poultry farm at Valayapatty, a Volkswagen Car bearing Reg.No.TN-02-AR-4048 belonging to the first respondent, came from the opposite direction in a rash and negligent manner and dashed against the claimant's vehicle and caused the accident. In the accident, the appellant sustained multiple injuries all over his body and immediately, he was taken to C.M.Hospital, Namakkal for treatment, where he spent more than Rs.5,00,000/- towards hospital expenses. At the time of accident, the petitioner was aged about 45 and he was working as Mason and earned Rs.12,000/- per month. After the accident, he is not able to do any work as before. Hence, he filed the claim petition before the Tribunal claiming compensation of Rs.15,00,000/-. Even though the Tribunal has fixed the compensation as Rs.9,48,560/-, the appellant was granted only Rs.6,63,992/- together with interest at 7.5% per annum, since he contributed negligence of 30%.

3.The learned counsel appearing for the appellant would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimant is entitled for higher compensation. He would further contend that at the time of accident, the appellant was 45 years and working as a Mason and sustained grievous injury at right leg and below knee was amputated. The Doctor has assessed permanent disability of 70% as per disability certificate (Ex.P.10). He would further contend that the Tribunal failed to consider the nature of injuries will affect his 100% future earning capacity and the Tribunal has meagerly taken a sum of Rs.6,000/- as notional income. He would further submit that the Tribunal erred in fixing 30% contributory negligence on the claimant. Hence, the appellant seeks for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent Insurance Company submitted that the impugned Judgment and Decree awarding the aforesaid compensation is well reasoned and it requires no interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

5.This Court carefully considered the submission of the learned counsel appearing for the appellant/claimant and the learned counsel appearing for the second respondent/Insurance Company and perused the materials available on record.

6.It is not in dispute that the appellant sustained injuries in a road accident that had taken place on 13.08.2017. Perusal of the records would show that the Tribunal on proper appreciation of evidence, rightly held that the accident took



place due to the negligence of both the drivers. So, the finding on negligence is confirmed.

7. Though the learned counsel appearing for the appellant/claimant has contended that the award is meager and sought enhancement, on perusal of the records, we find that the Tribunal, after considering the age and profession of the appellant, has fixed the monthly income at Rs.6,000/- and adopting correct multiplier awarded a just and reasonable compensation. Further, the Tribunal after perusing the medical bills (Ex.P.6) awarded Rs.1,16,560/- towards medical expenses; Rs.20,000/- towards transport expenses and Rs.10,000/- towards extra nourishment. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.

8. For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

skn

To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Namakkal.

Copy to: The Section Officer,
V.R. Section,
Madras High Court, Chennai.

+1cc to Mr. Ma. P. Thangavel, Advocate SR.No.54881

+1cc to M/s. R. Sreevidhya, Advocate SR.No.55295

C.M.A.No.3072 of 2021

PP(CO)
CB(10/12/2021)