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C.M.A.No.1235 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1235 of 2012

Kannan

... Appellant

Vs.

1.K.Moorthy

2.The New India Insurance Co. Ltd.,
rep. by its Divisional Manager,
Arcot Road,
Vellore.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to prefer the Memorandum of Grounds of Civil Miscellaneous Appeal against the order in M.C.O.P.No.832 of 2003, dated 08.06.2006 before the Motor Vehicle Accident Claim Tribunal Principal Sub Judge, Tiruvannamalai.

For Appellant : Mr.S.R.Bharath Gowtham
for Mr.T.R.Rajaraman
For Respondents : Ms.A.Solomi for R2

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking compensation under the impugned award dated 08.06.2006 made in



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M.C.O.P.No.832 of 2003 passed by the Motor Accident Claims Tribunal /

Principal Subordinate Judge, Tiruvannamalai.

2. The case, in brief, is as follows:

On the fateful day, i.e., on 14.01.2002, at 01.00 p.m., while the appellant and his wife were walking in the left side of Mallavadi Animal Husbandary Hospital, Mallavadi, the TVS 50 Moped bearing Regn.No.TN-25-C-2700, came in a rash and negligent manner and dashed against the appellant due to which he sustained multiple injuries and his left leg fractured. The appellant/claimant filed a claim petition before the Tribunal claiming a sum of Rs.2,00,000/- for the injuries and fracture sustained by him in the accident. Considering the materials and evidence available on record, the Tribunal has dismissed the petition with costs.

3. Challenging the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal for compensation.

4. The learned counsel for the appellant/claimant has submitted that the appellant was an agricultural coolie and was earning a sum of Rs.2000/- p.m., He sustained abrasion in right cheek, forehead, right fronted region, right



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chest, right knee, left knee and both bones of the left leg fractured. Immediately after the accident, the claimant was admitted in G.H.Tiruvannamalai by his wife and others, where the Taluk S.I of Police recorded her statement and registered FIR in Cr.No.37 of 2002 under Sections 279 and 338 of IPC. He further submitted that he was treated as in-patient in the said Hospital for four days. He further submitted that the trial court erred in dismissing the claim application as the Registration Number of the vehicle was not mentioned in the FIR. He failed to appreciate Ex.P8 wherein the driver of the vehicle has accepted his negligence. He ought to have seen that the purpose of the Motor Vehicle Claims Tribunal is to compensate the victim. Stating so, the learned counsel for the appellant prayed for grant of compensation.

5. Per contra, the learned counsel for the second respondent/ Insurance Company has submitted that the appellant is put to strict proof of the allegations levelled by him with regard to the nature of the accident, age, income and avocation of the claimant. The amount claimed by the appellant is highly excessive and disproportionate to the alleged injuries alleged to have been sustained by him. Since there is no intimation about the accident by the first respondent to the Insurance Company, the second respondent reserves its right to take defence under Section 170 of Motor Vehicles Act. If really the vehicle in



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question had been involved in the accident, the number of the vehicle would have been mentioned in the FIR. It is evident from the fact that the said vehicle has been sent for Motor Vehicle inspection Inspector after a long lapse from the date of the alleged accident. Also, the judgment in the criminal case is pertaining to a different crime number. The trial court has rightly considered the materials and evidence available on record and has rightly dismissed the petition and hence the same does not require any interference at the hands of this Court.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. Before the Tribunal, on the side of the Appellant/claimant, two witnesses were examined as PW1 and PW2 and has filed eight documents which were marked as Ex.P1 to Ex.P8. On the side of the respondents, two witnesses were examined as RW1 and RW2 and has filed three documents which were marked as Ex.R1 to Ex.R3.

8. On perusal of the records with that of Ex.R1 and Ex.R2, there is a contradiction in respect of Crime number mentioned in FIR and STC Number and the same is not properly explained. The accident happened on 14.01.2002



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but the vehicle was subject to motor vehicle inspection only after 1½ years which creates a doubt. The claimant sustained injuries in an accident for which Cr.No.37 of 2002 was registered. But in Ex.P8, Cr.No.811 of 2002 alone was mentinoed. Even in Ex.P2/Accident Register, it was noted by the Doctor as "pedestrian hit by a Scooter". The Tribunal has relied upon the exhibits, evidence of witnesses, treatment records, copy of the Judgment in STC.No.698 of 2004, disability certificate and all other aspects in a proper perspective and rightly dismissed the petition filed by the claimant. Further, this Court is of the considered view that this appeal is liable to be dismissed in the absence of concrete evidence.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

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Index :Yes/No

Internet:Yes/No

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