



C.M.A.No.464 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	24.02.2022
PRONOUNCED ON	:	09.06.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A.No.464 of 2012

A.Vincent

... Petitioner/ Appellant

Vs.

1) Vinodh

2) The United India Ins.Co.Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai, Chennai-2

... Respondents /
Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 11.10.2011 made in M.C.O.P.No.294 of 2004, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu.

For Appellant : Ms.Maithri Mahalingam
For Mr.Mahalingam

For R-2 : Mr.M.J.Vijayaraghavan



C.M.A.No.464 of 2012

J U D G M E N T

WEB COPY

The claimant is the appellant herein. The present appeal has been filed challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu by judgment dated 11.10.2011 made in M.C.O.P.No.294 of 2004.

2. The brief facts of the case of the claimant in the claim petition are that on 31.10.2003 at about 6:30 p.m., while the petitioner was crossing Harris Road from North to South direction, the motorcycle bearing Reg No.TN 20 T 0318 was driven by its rider in a rash and negligent manner, at a dangerous speed, from east to west direction, on the wrong side of the road and subsequently, dashed against the petitioner. As a result of the accident, the petitioner sustained grievous injuries. Therefore, the claimant filed the claim petition in M.C.O.P.No.294 of 2004, claiming a sum of Rs.2,50,000/- as compensation for permanent disability.

3. Before the Tribunal, on the side of the claimant, two witnesses, P.W.1 and P.W.2 were examined and exhibits Ex.P1 to P5 were marked. On the side of the respondent, no witness was examined and no exhibit was marked. Upon hearing both sides and perusing the records, the Tribunal has awarded a sum of



C.M.A.No.464 of 2012

Rs.1,34,000/- (Rupees One Lakh and Thirty Four Thousand only) as compensation.

4. Not being satisfied with the quantum of Award of the Tribunal, the claimant/appellant has come up with the present appeal, seeking enhancement of compensation.

5. On the point of quantum, I have heard both sides and perused the materials available record.

6. The learned counsel appearing for the appellant/Claimant has brought to the notice of this Court that the Tribunal has not considered the evidence of P.W.1 and P.W.2, with regard to the nature of injuries sustained by the claimant. From the testimony of P.W.2, Dr.N.Sai Chandran and exhibit Ex.1, it is inferred that the claimant had suffered fracture of left angle and the same is now malunited and the Doctor had assessed the disability of the claimant at 50%, in respect of the fracture of left ankle, which he sustained in the accident.

1. The learned Judge, by taking into consideration the nature of the accident and nature of the injuries sustained by the claimant, fixed the percentage of disability as 40% and awarded a sum of Rs.2,000/- towards each

2.



WEB COPY



C.M.A.No.464 of 2012

J.NISHA BANU, J.,

sts
percentage of disability and in my opinion, the Tribunal has rightly applied all the principles in fixing the compensation by considering the facts and circumstances of the case, which does not warrant any interference of this Court.

8. Accordingly, the Civil Miscellaneous Appeal filed by the appellant against the Judgment and Decree dated 11.10.2011 made in M.C.O.P.No.294 of 2004, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu stands dismissed. No costs.

09.06.2022

sts

Index : Yes/No

Internet : Yes/No

Speaking Order / Non-Speaking Order

To:

1) The Motor Accidents Claims Tribunal,
Principal Subordinate Judge, Chengalpattu.

2) The V.R.Section, Madras High Court, Chennai.

Judgment made in
C.M.A.No.464 of 2012