



C.M.A.No.605 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No. 605 of 2022

Sugadevan

...Appellant

Vs.

1. Ponmeni

2. Dr.K.Punithavathi

3. The Oriental Insurance Co., Ltd.,
Kumar Complex, 1st Floor, 146, West Car Street,
Tiruchengode Town & Taluk, Namakkal District.

4. The Oriental Insurance Co., Ltd.,
Parimalam Complex, 11, E.V.N. Road,
II Floor, Erode – 638 011.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.356 of 2018 dated 23.09.2021 by the learned Special Subordinate Judge, Motor Accident Claims Tribunal (Special Subordinate Court), Erode.



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For Appellants : Mr.C.Paraneedharan

For Respondents : No Appearance for R1 & R2
Mr.K.Vinod for R3 & R4

JUDGMENT

The appeal is filed by the claimant seeking enhancement of compensation. On 02.03.2018 while the claimant was riding his motor cycle, an Omni Car driven by the first respondent in a rash and negligence manner dashed against the claimant's Motor Cycle, due to which the claimant sustained grievous injuries.

2 The claimant was aged about 20 years at the time of accident and was studying 1st Year B.Sc. According to claimant, he was earning Rs.5000/- p.m. The claimant therefore filed the claim petition seeking a sum of Rs.15.00 lakhs as compensation for the injuries sustained by him in the accident. The first and second respondent Driver and Owner of the Vehicle remained ex-parte before the Tribunal and the claim petition was contested by the third and fourth



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respondents/Insurance Company. The contesting respondents filed counter denying all the averments and the allegations made in the claim petition apart from disputing the negligence and liability.

3 Before the claims Tribunal, the claimant examined himself as P.W.1 and three others as P.Ws.2 to 4 and marked documents Exs.P1 to P26. On the side of the respondents no oral and documentary evidence was adduced.

4 The claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.6,53,000/- as compensation along with 7.5% interest and fixed the liability on the third and fourth respondents. Not being satisfied with the compensation awarded by the claims Tribunal, the claimant has filed the above appeal.

5 The learned counsel appearing for the appellant submitted that considering the nature of the injuries sustained by the claimant the Tribunal ought to have awarded fair compensation towards permanent disability and loss of earning power. As far as the compensation under the other heads are concerned, the learned counsel for the appellant did not seriously dispute the same.



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6 The learned counsel for the respondents 3 & 4/Insurance Company, on the other hand, submitted that the Award of the Tribunal was just, fair and reasonable and did not call for any interference by this Court.

7 The only issue to be decided in the appeal is whether the compensation awarded by the Tribunal towards permanent disability and Loss of earning power is fair just and reasonable or not.

8 It is seen from the disability certificate Ex.P14 that the claimant sustained Fracture distal radius-left, Fracture Scapula – left, Fracture Calvicle – left. As per Ex.P14 issued by P.W.4 the disability was assessed at 15% permanent disability. The Tribunal without even discussing the functional disability, awarded reasonable amount towards permanent disability and loss of earning power. Further the Tribunal assessed the income of the claimant at Rs.9,000/- even though in the claim petition the income was pleaded at Rs.5,000/- p.m.



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9 Considering the nature of injuries sustained by the claimant, I am of the view that the award of Rs.4,09,000/- towards permanent disability and loss of earning power is reasonable and does not merit further enhancement. The claimant has not disputed the compensation under other heads and therefore the award of the Tribunal is confirmed. The appeal is dismissed. There shall be no order as to costs.

21.06.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal (Special Subordinate Court),
Erode.
2. The Section Officer, V.R.Section, High Court, Madras.



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N.MALA, J.

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