



C.M.A.No.3561 of 2010

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.3561 of 2010

Dr.T.A.Srinivasan

... Appellant/Petitioner

Vs.

1.N.Suresh

2.M/s.The Oriental Insurance Co. Ltd.,
India Life Buildings,
Trichy Road,
Coimbatore – 641 018.

3.The United India Insurance Co. Ltd.,
Branch Office II A.A. Street,
Salem – 1.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 29.01.2010 made in M.C.O.P.No.574 of 2002 on the file of Motor Accidents Claims Tribunal cum Additional District Judge, Fast Track Court No.I, Salem.

For Appellant : Mr.P.Rajavelu

For Respondents : Not Ready in Notice [R1]
Mr.K.Vinod [R2]
Mr.J.Chandran [R3]



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JUDGMENT

The claimant is before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal cum Additional District Judge, Fast Track Court No.I, Salem in M.C.O.P.No.574 of 2002, dated 29.01.2010.

2. On 09.09.2001 at about 22.30 hours, the petitioner was travelling in his car bearing Reg.No.TN 27 S 9689 and he was were returning from Palani along with his friends, one the friends of the petitioner, namely Raja @ Rajavel was driving the car. When the car nearing Raj wines shop, O.K.Mandapam within the Chettipalayam PS limits of Coimbatore District, the tempo van bearing Reg.No.TN 37 K 8003 owned by the first respondent hit against another Maruthi Car going ahead of the petitioner's Maruthi car and then it hit against the car in which the petitioner and his friends were travelling. As a result, the driver of the petitioner's car died and the petitioner sustained grievous injuries. Thereafter, the petitioner had filed a claim petition claiming a total compensation of a sum of Rs.10,00,000/- under various heads. After adjudication, the Tribunal awarded a sum of Rs.3,82,059/- with an



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interest of 7.5% p.a. Challenging the same, the claimant is before this Court.

3. The learned counsel appearing for the appellant submitted when the Tribunal has accepted that the tempo van was driven in a rash and negligent manner and was the cause for the accident, the compensation awarded by the Tribunal towards disability by adopting a sum of Rs.2,000/- per percentage of disability is wholly inadequate. Further, the amount awarded under the head of pain and suffering is also minimal, which requires enhancement.

4. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, at the relevant point of time, as per the decision of the Apex Court as well as this Court, though the amount for per percentage of disability is Rs.1,000/-, however, the Tribunal has awarded a sum of Rs.2,000/- per percentage of disability, which itself is excessive. Further, the compensation awarded under the other heads is reasonable. Therefore, the award of the Tribunal does not require any enhancement.



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5. Though this appeal has been filed in the year 2010, the appellant has not taken any steps to service notice on the first respondent. Considering the pendency of this appeal, this Court is inclined to dispose of this appeal based on the materials available on record.

6. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded. As per the existing law at the relevant point of time, by considering the disability suffered by the appellant, the Tribunal has awarded a sum of Rs.90,000/- towards disability by fixing a sum of Rs.2,000/- per percentage of disability, which is on the higher side since the accident was happened in 2001. Though the second respondent/Insurance Company has not filed any appeal, however, for misconception, the appellant has preferred the present appeal. Therefore, this Court is not inclined to interfere with the said compensation awarded by the Tribunal. Further, this Court finds that the compensation awarded under the other heads are just and reasonable and the same does not require any interference. Hence, the appeal is liable to be dismissed.



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7. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 29.01.2010 made in M.C.O.P.No.574 of 2002 on the file of the Motor Accidents Claims Tribunal cum Additional District Judge, Fast Track Court No.I, Salem is confirmed. No costs.

09.10.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

1.The Motor Accidents Claims Tribunal cum Additional District Judge,
Fast Track Court No.I,
Salem.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

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