



C.M.A.No.952 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 27.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.952 of 2020

and

C.M.P.No.6005 of 2020

Rajprabakar

... Appellant

Vs.

1.Mohan

2.Munusamy

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, praying to set-aside the fair and decreetal order made in M.C.O.P.No.817 of 2015 dated 20.12.2017 on the file of the Motor Accidents Claims Tribunal (Additional District Court), Dharmapuri.

For Appellant : Mr.Sakkarapani V.

For R1 : No Appearance

For R2 : Mr.D.Ramesh kumar



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JUDGMENT

The Civil Miscellaneous appeal is filed challenging the award and decree made in MCOP.NO.817 of 2015 dated 20.12.2017 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Dharmapuri.

2. The owner of the offending vehicle is the appellant herein and has filed the above appeal challenging only the quantum of compensation.

3. For the purpose of convenience, the parties are referred to as per their rank before the Tribunal.

4. According to the claimant, the accident occurred on 07.09.2015. When the claimant was trying to cross the road, the two-wheeler belonging to the 1st respondent and driven by the 2nd respondent in a rash and negligent manner, dashed against the claimant causing grievous injuries to him. The claimant was aged 70 years at the time of the accident and was earning Rs.6,000/- per month. The claimant filed the claim petition claiming a sum of Rs.5,00,000/- as total compensation.



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5. The vehicle was not insured and so the owner of the vehicle and the driver were impleaded as parties. The 1st respondent the owner of the vehicle, contested the claim petition but did not file any counter. The 2nd respondent driver of the vehicle filed a counter denying all the averments in the claim petition including negligence, liability and quantum

6. Before the Claims Tribunal, the claimant examined himself as P.W.1 and marked 7 documents as Ex.P.1 to Ex.P.7. On the other side, 2nd respondent examined himself as R.W.1 and did not mark any documents. The disability certificate Ex.C.1 issued by the Medical Board was marked as Court document.

7. The Tribunal, on an assessment of entire evidence on record, rendered a finding of negligence against the respondents 1 and 2 therein and passed an award for a sum of Rs.1,87,000/- along with 7.5% of interest jointly payable by the 1st and 2nd respondent.

8. Aggrieved by the award passed by the claims Tribunal, the 2nd respondent/driver of the offending vehicle has filed the appeal challenging only the quantum of compensation.



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9. The learned counsel for the appellant submitted that the amounts award by the Claims Tribunal under various heads are excessive and disproportionate to the injuries sustained by the claimant. The learned counsel therefore submitted that the award of the Tribunal may be modified.

10. The learned counsel for the claimant, on the other hand, submitted that the Claims Tribunal, on an assessment of the entire evidence on record, has passed just, fair and reasonable compensation and it needs no interference.

11. I have heard the learned counsel on either side and perused the materials placed on record.

12. It is seen from the averments made in the claim petition that, the claimant in the claim petition, has stated that the claimant had sustained tenderness and swelling in the left thigh and there is wound in right leg. Therefore, he has not sustained grievous injuries like fracture, etc. Hence, considering the nature of injuries sustained by the claimant. I am of the view that the impugned award of the Claims Tribunal towards the loss of amenities is unsustainable. The amounts awarded by the Tribunal under other heads, are reasonable, fair and just and therefore they are not interfered with.



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13. In the light of the said discussion the impugned award of the Tribunal is modified as follows:

S.No	Various Heads	Award by Tribunal	Award by this Court
1.	Disability	Rs.1,05,000/-	Rs.1,05,000/-
2.	Transport Charges	Rs.10,000/-	Rs.10,000/-
3.	Nutritious expenses	Rs.10,000/-	Rs.10,000/-
4.	Attendant Charges	Rs.10,000/-	Rs.10,000/-
5.	Loss of clothes	Rs.2,000/-	Rs.2,000/-
6.	Pain and Sufferings	Rs.25,000/-	Rs.25,000/-
7.	Loss towards parts of the body	Rs.25,000/-	Nil
Total Compensation		Rs.1,87,000/-	Rs.1,62,000/-

14. Therefore the appeal is partly allowed. The appellant and the 1st respondent shall be jointly and severally liable to pay the compensation amount of Rs.1,62,000/- to the 2nd respondent along with 7.5% interest. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

27.04.2023

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1.The Additional District Judge,
(Motor Accidents Claims Tribunal), Dharmapuri.

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



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N.MALA.J.,

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