



C.M.A.No.946 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE N.MALA

C.M.A.No.946 of 2023

K.Thangam

...Appellant

Vs.

1.Manimandhiri

2.The Oriental Insurance Co., Ltd.,
Branch office : Kuamar Complex, 1st Floor,
146, West Car Street, Tiruchengode Post & Taluk,
Namakkal District.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.542 of 2012 dated 14.07.2020, on the file of the Motor Accident Claims Tribunal/ Subordinate Judge Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.M.J.Vijayaraghavan for R2



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J U D G M E N T

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The appeal is filed by the claimant against the judgment and decree dated 14.07.2020 made in MCOP.No.542 of 2012 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Sankari.

2. The claimant has filed the Original Petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the motor accident which occurred on 04.06.2012. The appeal is filed by the claimant for enhancement of compensation.

3. According to the claimant, on 04.06.2012, when he was travelling as a pillion rider in the Hero Honda Splendor, the motor cycle belonging to the 1st respondent and driven by its driver in a rash and negligent manner hit the claimant's motor cycle thus causing multiple injuries like fracture in mid shaft of Ulna Radius and other multiple injuries.

4. According to the claimant, he was as an Agriculturist and Partner of Vinayaka Finance, Salem and was earning an income of



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Rs.20,000/-. The claimant therefore filed the claim petition seeking a compensation of Rs.15,00,000/-.

5. The 1st respondent, owner-cum-driver of the offending vehicle remained *ex parte* and the claim petition was contested by the 2nd respondent, insurer of the offending vehicle. The 2nd respondent filed a counter denying negligence, liability and quantum.

6. Before the Claims Tribunal the claimant examined himself and marked Exs.P1 to P22 in support of the claim. The respondent examined one witness and marked one document. Exs.C1 and C2 were filed as Court documents.

7. The Tribunal on assessment of the entire evidence on record allowed the claim petition by awarding a sum of Rs.3,60,000/- along with 7.5% interest as compensation. Not satisfied with the compensation awarded by the Tribunal, the claimant has filed the above appeal.



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8. The learned counsel for the appellant submitted that the disability assessed by the Tribunal at 15% is very meagre and the Tribunal failed to award any amount towards loss of income, loss of amenities and attender charges. The learned counsel therefore submitted that the award of the Tribunal deserved to be modified.

9. The learned counsel for the 2nd respondent on the other hand submitted that the compensation awarded by the Tribunal is fair, just and reasonable on the facts of the case and therefore it did not call for any interference by this Court.

10. I am not inclined to accept the contention of the learned counsel for the appellant that the disability assessed by the Medical Board under Ex.C1 was very meagre. In my view, the assessment of disability by the Medical Board, which is an expert cannot be interfered with, more so, when it is accepted by the claims Tribunal. Even otherwise, in my view, the assessment of disability at 15% permanent disability is in consonance with



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nature of the injuries sustained by the claimant and therefore the same is not interfered with.

11. It is seen that though no amounts were awarded towards loss of income, loss of amenities and attender charges but as the award of the Tribunal towards transportation charges, extra nourishment, damage to clothing, future medical expenses and pain and sufferings are very much on the higher side and therefore there is no justification for claiming any sum towards the above heads. I am therefore of the view that the award of the claims Tribunal is fair, just and reasonable and calls for no interference by this Court.

12. It is submitted by the learned counsel for the appellant that the 2nd respondent/ Insurance Company has not deposited the compensation awarded by the Tribunal and therefore a direction may be issued to the 2nd respondent/ Insurance Company to deposit the amount within a reasonable period.



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13. In view of the said submission, a direction is issued to the 2nd respondent to deposit the compensation amount awarded by the claims Tribunal within a period of eight (8) weeks from the date of receipt of a copy of the order along with accrued interest and costs. On such deposit being made, the claimant shall be entitled to withdraw the same by making proper application before the Tribunal.

14. The Civil Miscellaneous Appeal is accordingly **dismissed**.
There shall be no order as to costs.

21.04.2023

dsa

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



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To:-

WEB COM The Subordinate Judge,
Motor Accident Claims Tribunal,
Sankari.



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N.MALA, J.

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