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C.M.A.No.2203 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.2203 of 2023
and CMP.No.21194 of 2023

A.Thiruvengadam

..... Appellant / 2nd Respondent

Vs

Rajeswari

..... Respondent / Claimant

Rajendran @ Ragavendran (Deceased)

..... Respondent / 1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 praying to set aside the order passed in M.C.O.P.No.91 of 2017 by the II Additional District and Sessions Judge (Motor Accident Claims Tribunal), Chidambaram, dated 24.02.2022.

For Petitioner : Mr.P.Chandrasekaran

For Respondent : Mr.Rohith K.B.
for Mr.D.Baskar



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JUDGMENT

On 13.05.2017, while a 30 year old Rajeswari was proceeding to a temple on the Bhuvanagiri-Vridhachalam main road, she was knocked down by a motorcycle bearing registration No.TN31 BU 1057, driven by a minor, and that the motorcycle was not insured. Seeking compensation for the grievous injuries sustained, Rajeswari moved the Motor Accident Claims Tribunal (II Additional District and Sessions Judge), Chidambaram with M.C.O.P.No.91 of 2017. The Tribunal had determined a total compensation payable at Rs.2,03,250/-, and directed the owner of the vehicle to pay the same. Aggrieved by the quantum awarded by the Tribunal, the owner of the vehicle is now before this Court with this appeal.

2. The learned counsel for the appellant argued that the Tribunal has gone wrong in accepting the disability certificate, Ext.C1 issued by the medical board, totally. The medical board had examined the victim some two years after the accident, and that Ext.R1 to Ext.R3, the photographs which the appellant has produced shows that the claimant is walking freely, and that the accident has not affected her leg activities.



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3. Per contra, the learned counsel for the respondent contended that the Tribunal has not treated the disability of the claimants as functional disability, and has awarded compensation only at the rate of Rs.5,000/- for every percentage of injury. He added that the compensation as awarded by the Tribunal is just fair and reasonable.

4. The appellant is required to be told that the Court grants compensation for the injuries suffered and not how the claimant lives post injury. It may be relevant only where the Court deals with any issues of functional disability. So far as claimant is concerned, it is an undisputed fact that she was knocked down by an uninsured motorcycle, and Ext.P2, accident register read with Ext.P5 shows that the claimant has suffered fractures to both right tibia and fibula, and the fractures are surgically corrected. Are they not injuries which requires to be compensated?

5. Turning to the approach of the Tribunal, this Court finds that the approach of the Tribunal in determining the compensation that it has awarded is not found to be erroneous as warranting any interference by this Court.



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6. To conclude, the appeal is dismissed and the award of the Tribunal is confirmed. This Court is informed that the appellant has deposited Rs.25,000/- before the Tribunal, and he is now required to deposit the balance amount with interest at 7.5%, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

23.11.2023

Index : Yes / No
Speaking order / Non-speaking order
kas/ds

To:

1.The II Additional District and Sessions Judge
Motor Accident Claims Tribunal
Chidambaram.

2.The Section Officer
VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

ds

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