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C.M.A.No.824 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.824 of 2020
and C.M.P.No.5286 of 2020

L.R.N.Motors,
No.3/392-B, Trichy Main Road,
Seelanaickenpatty,
Salem District.

... Appellant/1st Respondent

Vs

1.Annapoorani

... 1st Respondent/Claimant

2.Vengatesan

... 2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Fair and Final Order dated 21.11.2019 passed by the learned Chief Judicial Magistrate/Motor Accident Claims Tribunal, Namakkal in M.C.O.P.No.35 of 2015 and prays to set aside the same and enhance the compensation amount.



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For Appellant ... Mr.A.Sriram
for Mr.L.Mouli

For Respondents ... [R1] -No Appearance
... [R2] -(Set ex-parte before the Tribunal)

JUDGMENT

Challenging the impugned award dated 21.11.2019 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal in M.C.O.P.No.35 of 2015, the claimant has filed the present Appeal seeking enhancement of compensation.

2. It is the case of the claimant that on 05.10.2014, at about 2.30 p.m, when the claimant was standing on the Namakkal to Paramathy Road, at that time, the unnumbered Two Wheeler belonging to the Appellant driven by the 2nd Respondent in a rash and negligent manner came and dashed against the claimant which resulted in the claimant suffering grievous injuries and was hospitalized. Claiming compensation at the hands of the Appellant, the claimant preferred the claim petition before the Tribunal.



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3. Before the Tribunal, the claimant examined himself as P.W.1 and marked viz., Ex.P-1 to Ex.P-13. On the side of the Respondents, R.W.1 was examined and Ex.R-1 & Ex.R-2 were marked. After considering all the oral and documentary evidence, the Tribunal had awarded the compensation amount of Rs.2,69,100/- to the claimant and fastened the liability on the Appellant. Aggrieved by the said award dated 21.11.2019, the Appellant has filed the present appeal questioning the liability.

4. Learned counsel appearing for the Appellant submitted that the vehicle which is alleged to have involved in the accident was sold to one K.Thennarasu on 14.10.2014 itself while the accident alleged to have taken place on 15.10.2014. Ex.P-8 & Ex.R-2 have been filed by the Appellant to show that the vehicle was sold to said Thennarasu. That being the case, without appreciating the said fact, the Tribunal has fastened the liability on the Appellant as the owner of the vehicle, the appellant to pay the compensation which is grossly illegal. However, the compensation awarded under various heads is also on the higher side which requires interference. It is the further



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submission of the learned counsel that said Thennarau being the registered owner of the vehicle, ought to have been impleaded as a necessary party in the claim petition. In the absence of impleading Thennarasu, the claim petition itself is not maintainable.

5. Though notice was served on the 1st Respondent and his name printed in the causelist, when the matter is taken up, none appeared on behalf of the 1st Respondent. Considering the pendency of the Appeal which is of the year 2020, this Court is inclined to dispose of the same based on the materials available on record.

6. This Court heard the learned counsel appearing for the Appellant and perused the materials available on record.

7. The factum of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. However, the liability of the appellant to pay the compensation to the claimant is the only dispute on the



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ground that the appellant had already sold the vehicle on 14.10.2014 while the accident had happened on 15.10.2014. To substantiate the sale of the vehicle on 14.10.2017, the appellant placed reliance upon Ex.P-8 to Ex.R-2, the documents which are alleged to have been signed by the person who had purchased the vehicle from the appellant. Though the documents reveals that the person by name Thennarasu is alleged to have purchased the vehicle on 14.10.2014, however, the said Thennarasu has not been examined as an eye-witness by the appellant to establish that the said Thennarasu had purchased the Vehicle and in fact executed Ex.P-8 & Ex-R-2 to prove that the vehicle was sold on the preceding day before the accident. In the said context, the Tribunal has appreciated the materials and had come to a conclusion that there is no evidence connecting alleged Thennarasu as the owner of the vehicle and the vehicle which was involved in the accident stood in the name of the appellant and therefore the appellant is liable to compensate the claimant. The said findings by no means could be said be erroneous or unreasonable. Accordingly, the same deserves to be confirmed.



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8. Insofar as the compensation awarded under various heads which according to the appellant is excessive. However, this Court had perused the exhibits which have been placed before the Tribunal. On perusal of which, this Court finds that the quantum of compensation awarded under other heads is just and reasonable as the same has been awarded based on the ratio laid down by the Courts with regard to the award of compensation. Therefore, no interference is warranted.

9. Accordingly, the Appeal is dismissed and the impugned award in M.C.O.P.No.35 of 2015 stands confirmed. There shall be no order as to costs in the present appeal. Consequently, the connected Miscellaneous Petition stands closed.

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



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- To
- 1.The Motor Accident Claims Tribunal Cum
Chief Judicial Magistrate
Namakkal.
 - 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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