



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.M.A. No.1732 of 2018

Vijayakumar

... Appellant

Vs.

1.Gnanamanikandan

2. Future Generaly India Insurance Company Limited
2nd and 3rd Floor, Plot No.55 (Old No.27)
Vijayaraghava Road, T.Nagar,
Chennai - 600 017

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.07.2017 in MCOP No.1194 of 2013 passed by the Motor Accident Claims Tribunal (Principal District Judge), Namakkal.

For Appellant : M/s.D.Jeevitha for
Mr.Nalliyappan

For Respondents : M/s.C.Harini for
M/s.M.B.Gopalan Associates for R2
R1- Not ready



JUDGMENT

WEB COPY

The above Civil Miscellaneous Appeal is filed against the judgment and decree dated 05.07.2017 in MCOP No.1194 of 2013 passed by the Motor Accident Claims Tribunal (Principal District Judge), Namakkal, for enhancement of compensation.

2. The appellant is the claimant. The 1st respondent is the owner and the 2nd respondent is the insurer of the offending car bearing Regn. No.TN-30-AJ-6718.

3. The case of the claimant is that on 06.10.2012, at about 4.30 a.m., he was travelling in a Tavera Car bearing Regn. No.TN-30-AJ-6718, on the Thanjavur to Thiruvarur main Road. At Vilamal Village opposite to a Tasmac shop, the driver of the Car, drove the same in a rash and negligent manner without observing the road traffic rules and hit against a road side tree, due to which, the claimant sustained multiple grievous injuries all over the body.

4. The claimant filed a claim petition in MCOP No.1194 of 2013 before the Motor Accident Claims Tribunal (Principal District Judge), Namakkal,



claiming compensation of Rs.7,00,000/- for the injuries sustained by the him stating that prior to the accident, the claimant was an Electrician by profession and earning Rs.7,500/- per month and due to the injuries, he lost is earning power and employment.

5. The said claim petition was taken by the Tribunal along with the connected matters, filed by the injured/dependents who travelled in the said car at the time of accident and affected due to the accident and common order was passed.

6. In order to substantiate the claim before the Tribunal, on the side of the claimants, the 8 witnesses were examined as P.W.1 to P.W.8 and 50 documents were marked as Ex.P.1 to Ex.P.50. On the side of the respondents, one witness was examined as R.W.1 and 2 documents were marked as Ex.R1 and Ex.R2 besides, Court documents were marked as Ex.C1 to C6 Series.

7. Before the Tribunal, the 1st respondent herein/owner of the car remained ex-parte.

8. The Tribunal, after hearing the arguments on either side and



considering the materials, awarded compensation of Rs.1,29,878/- with interest at 7.5% per annum from the date of petition till the date of realization with cost and the Insurance Company was directed to deposit the said award amount on behalf of the owner of the car.

9. Challenging the Award passed by the Tribunal, the claimant has filed the present appeal for enhancement of compensation.

10. The learned counsel for the Appellant/claimant submitted that at the time of accident, the claimant was an Electrician by profession and due to the accidental injuries, he could not perform the Electrician work. Though the doctor assessed the disability at 42%, the Tribunal without any reason, reduced the same to 30%. Further, the amount awarded under the other heads are also very meagre and the Tribunal failed to consider the charges towards Transportation, Loss of Amenities, Attender Charges etc., which warrants interference.

11. The learned counsel for the 2nd respondent/Insurance Company submitted that the Award passed by the Tribunal reflects the 'just compensation'. Therefore, there is no merit in the appeal and the same is liable



to be dismissed.

12. The accident is not in dispute. The injuries sustained by the claimant is also not in dispute. Liability is also not disputed. The contention of the learned counsel for the appellant is that though the doctor assessed the disability of the claimant at 42%, the Tribunal fixed only 30% without any reason. However, a perusal of records shows that the doctor/P.W.7 has issued the disability certificate only by assessing the nature of injuries sustained by the claimant. Therefore, the Tribunal considering the fact that the claimant had not underwent any surgical treatment and he was given treatment only by way of medicine, fixed the disability at 30% and by adopting Rs.3,000/- per percentage, awarded the compensation of Rs.90,000/- towards loss of income. While taking into consideration the nature of injuries sustained by the claimant, this Court does not find any perversity in fixing the disability of the claimant at 30%. Further, the Award passed under the other heads are also reasonable and needs no interference.

13. This Court finds that the Award passed by the Tribunal is a "just and reasonable compensation". Therefore, there is no merit in the appeal and



the same is liable to be dismissed.

WEB COPY

14. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs in the present appeal.

23.08.2023
(3/3)

ksa-2

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

1. The Motor Accident Claims Tribunal
(Principal District Judge),
Namakkal.

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

C.M.A. No.1732 of 2





WEB COPY

C.M.A. No.1732 of 2



P.VELMURUGAN. J.

ksa-2

C.M.A. No.1732 of 2018

23.08.2023
(3/3)