



C.M.A.No.3418 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3418 of 2019
and C.M.P.No.20039 of 2019

K.Nataraj

... Appellant

Vs.

1.G.Madavarajkumar

2.Balraj

3.IFFCO-TOKIO General Insurance
Company Ltd.,
Coimbatore.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 30.11.2017 passed in M.C.O.P.No. 27 of 2012 on the file of the Motor Accident Claim Tribunal, Pollachi, Chennai.

For Appellant : Mr.L.Mouli

For Respondents
For R1 : Mr.K.Ramani

For R2 & R2 : No appearance



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J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 30.11.2017 made in M.C.O.P.No. 27 of 2012 on the file of the Motor Accident Claims Tribunal, Pollachi.

2. The 2nd respondent in the claim petition is the appellant herein preferred this appeal on the ground of quantum as well as liability.

3. Brief facts of the case:-

On 20.11.2009 at 6.45 p.m, when the claim petitioner / 1st respondent herein and his friend coming from Aliyar to Pollachi on Valparai Road in his motorcycle bearing Regn.No.TN-56-Z-5878 near Angalakurichi Village Mutton Stall, the 1st respondent / 2nd respondent herein driving his motorcycle bearing Regn.No.TN-41-P-2934 from opposite direction, in a rash and negligent manner and dashed against the petitioner's / 1st respondent's motorcycle. Hence, the accident occurred, due to which, the claim petitioner sustained grievous injuries and immediately he was taken to Hospital. Hence, the claim petition.



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4. During the trial, on the side of the claim petitioner P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P23 were marked and on the side of the respondents R.W.1 and R.W.2 were examined and no document was marked.

5. On perusal of oral and documentary evidence, the Tribunal has rightly come to the conclusion and fixed the liability on the 1st respondent / 2nd respondent herein, driver of the offending vehicle and the 2nd respondent / appellant herein, owner of the offending vehicle to pay the compensation jointly or severally to the claim petitioner and awarded compensation as follows;-

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Medical expenses	Rs.4,14,529/-
2.	Future medical expenses	Rs.1,50,000/-
3.	Disability	Rs.96,000/-
4.	Pain and suffering	Rs.25,000/-
5.	Extra nourishment	Rs.10,000/-
6.	Loss of income during treatment	Rs.21,000/-
<i>Total</i>		Rs.7,16,529/-

6. The learned counsel for the appellant submitted that the Tribunal erred in awarding Rs.7,16,529/- as compensation without appreciating the evidence



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on record and awarded Rs.1,50,000/- towards future medical expenses on assumption, without considering the nature of injuries sustained by the claim petitioner. The Tribunal erred in holding that the appellant is liable to pay compensation, when the appellant herein has proved that he has sold the two wheeler involved in the accident on 02.09.2009 itself to M/s.R.P.Motors, 110/36, Palakkad Road, Pollachi – 1. The Tribunal failed to see that the 1st respondent ought to have impleaded the present owner of the two wheeler when the appellant has proved that he had sold the two wheeler and signed all necessary documents for transfer of ownership. The Tribunal ought to have held that the 2nd respondent alone is liable to pay the compensation by considering the evidence of R.W.1 and R.W.2. The Tribunal failed to see that the appellant in his counter statement has specifically stated that he has sold his vehicle involved in the accident. Hence, this appeal may be allowed.

7. The learned counsel for the 1st respondent submitted that though the claim petitioner claimed Rs.15,00,000/- as compensation for the grievous injuries sustained by him in the alleged accident, the Tribunal awarded only Rs.7,16,529/- as compensation. Hence, it may be enhanced. The Tribunal



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rightly fixed the liability on the 1st respondent / appellant herein and hence, it does not warrant any interference of this Court.

8. It is seen from the records that though the appellant herein contented that he has sold the vehicle involved in the accident on 02.09.2009 to M/s.R.P Motors, Pollachi-1, and signed all necessary documents for transfer of ownership, failed to produce any document with regard to transfer of ownership has been changed into the name of the subsequent purchaser. In the absence of such documents, this Court is unable to accept the contention of the learned counsel for the appellant. Therefore, the liability fixed by the Tribunal in this regard is hereby confirmed.

9. After going through the heads of compensation awarded by the Tribunal, this Court find that it is just and reasonable, and the award passed by the Tribunal does not warrant any interference of this Court. Accordingly, the compensation awarded by the Tribunal under various heads are hereby confirmed.



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10. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.7,16,529/- awarded by the Tribunal as compensation to the claim petitioner / 1st respondent, along with interest and costs is hereby confirmed. The appellant and the 2nd respondent are directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.27 of 2012 on the file of Motor Accidents Claims Tribunal, Pollachi. On such deposit, the claim petitioner / 1st respondent herein is permitted to withdraw the award amount, along with proportionate interest and costs, after adjusting the amount already withdrawn, if any, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal,
Pollachi.



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A.A.NAKKIRAN.J,

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