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C.M.A.No.4004 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM:

The HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.4004 of 2019

and

C.M.P.No.22625 of 2019

The Assistant Director of Sericulture,
Villupuram

... Appellant

Vs.

P.A.Velusami

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 30.08.2018 made in M.C.O.P.No.1408 of 1999 on the file of the Motor Accident Claims Tribunal, Sub Court, Tirupur.

For Appellant : M/s.C.Jayaprakash
Government Advocate (CS)

For Respondent : Mr.K.Madhu



JUDGMENT

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This Civil Miscellaneous Appeal is filed by the respondent in the claim petition challenging the award passed in favour of the claimant in MCOP.No.1408 of 1999 dated 30.08.2018, wherein the Tribunal has awarded compensation at Rs.94,000/- to the claimant for the injuries sustained to him.

2. The parties are referred to hereunder according to status and ranking before the Tribunal.

3. The case of the claimant is that on 25.05.1999 at about 12.30 noon while he was driving a two wheeler bearing Registration No.TN 39 F 4012 on the Trippur to Avinasi Road, when the vehicle reached near Periyar Colony, Palani Petrol bunk to TTP Mill Road, a Jeep bearing Registration No.TN 32 G 0114 came from behind in high speed and hit on the two wheeler which resulted in accident causing severe injuries to the claimant. Therefore the claimant had filed a claim petition, claiming a sum of Rs.5,00,000/- as compensation from the respondent.

4. The case of the respondent is as follows:



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The driver of the Jeep, drove the vehicle with due care and caution and the accident did not happened due to negligent act of the driver of the Jeep, hence the respondent who is the owner of the Jeep is not liable to pay the compensation. The compensation claimed under various heads are higher side and prayed to dismiss the claim petition.

5. Before the Tribunal, on the side of the claimant P.W.1 to 3 were examined and Exs.P.1 to P.11 were marked in support of his claim. On the side of the respondent R.W.1 was examined and Exs.R1 was marked.

6. Based on the evidence placed on record, the Tribunal in issue Nos.1 and 2 has held that the driver of the respondent has driven the vehicle in rash and negligent manner and caused the accident and thereby the respondent is liable to pay the compensation to the claimant. In issue No.3, the Tribunal has quantified the quantum of compensation and awarded a sum of Rs.94,000/- as compensation. Aggrieved over the order passed by the Tribunal, the respondent is before this Court by way of this appeal, challenging the award of compensation.

7. The learned counsel for the appellant submitted that the Tribunal



has not properly appreciated the evidence placed on record on behalf of the respondent and the evidence of R.W.1 is more probable than P.W.1, hence prays to set aside the finding with regard to the liability. He also contended that the quantum of compensation awarded is also on higher side and prays to reduce the same.

8. Per contra, the learned counsel for the claimant submitted that the Tribunal has passed well reasoned order in all aspects and objection raised by the respondent has been properly considered and awarded the compensation. Hence, prays to confirm the award passed by the Tribunal.

9. Before the Tribunal, the claimant has examined himself as P.W.1 and he has deposed that he was driving his two wheeler on the Trippur to Avinasi Road, while he reached near Periyar Colony, Palani Petrol bunk to TTK Mill Road, a Jeep belongs to the respondent, driven by its driver came in a high speed and hit the two wheeler from behind due to which he sustained grievous injuries. The learned counsel also relied on the copy of the First Information Report which was registered against the driver of the respondent's vehicle. To contradict this evidence, the respondent has examined R.W.1 who was travelled as a passenger in the Jeep. He has stated



that on 25.05.1999 at 12.20 p.m, while the Jeep reached near Palani petrol bunk at TTP Mill road, the driver of the Jeep drove the vehicle with due care and caution, but the claimant/the rider of the two wheeler while attempting to overtake the Jeep lost his control and caused the accident.

10. The driver of the Jeep was not examined as a witness, however one of the passenger in the Jeep has been examined and according to him at the time of overtaking the Jeep, the claimant has lost his control, caused accident and sustained injuries. In the cross examination of the P.W.1, he has categorically denied the fact that while overtaking the vehicle, the accident has taken place. He has also denied the rough sketch prepared by the Investigating Officer in the criminal case, however, no such rough sketch was marked before the Tribunal. The driver of the Jeep was not examined who is the best witness for allegation relating to negligence on the part of driver of the Jeep. There is no reason stated for the non examination of the driver of the Jeep. The evidence of P.W.1 is also corroborated by other materials such as First Information Report, hence Tribunal has held that, evidence of P.W.1 is more probable than the evidence of R.W.1. This Court has no sufficient material to take different view than finding of the Tribunal. Accordingly, the liability fixed on the respondent is hereby confirmed.



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WEB COPY 11. With regard to the quantum of compensation, this Court is of the

view that the award of compensation granted under various heads are just, fair and reasonable and does not call for any interference by this Court. The petitioner has also examined the Doctor/P.W.3 who has assessed the disability at 50% and based on the disability certificate issued by the Doctor, Tribunal accepted disability as 50% and granted Rs.3000/- per percentage of disability which was the norms followed in relevant period under the head of disability. For the other heads also Tribunal has awarded just and fair compensation. This Court finds no ground to interfere with the quantum of compensation and the same is hereby confirmed. Accordingly, this Civil Miscellaneous Appeal is dismissed as there is no merits. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2023

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Index : Yes/No

Internet: Yes/No

Neutral Citation : Yes/No



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To:

- 1.The Motor Accident Claims Tribunal,
Sub Court, Tirupur.
- 2.The Section Officer,
VR Section,
High Court,
Madras.



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K. RAJASEKAR, J.

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