



C.M.A.No.1184 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

C.M.A.No.1184 of 2014

Selvaraj

... Appellant / Petitioner

Vs.

1. Rajendran

[R1 remained ex-parte before the Tribunal.
Hence notice to R1 may be dispensed with.]

2. M/s. United India Insurance Co. Ltd.,
Rep by its Divisional Manager,
J.N.Street, 1st Floor,
Puducherry – 605 004.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.A.C.T.O.P.No.716 of 2009, dated 29.10.2013 on the file of the Presiding Officer, Motor Accident Claims Tribunal (Principal Subordinate Judge), Pondicherry.

For Appellant	: Mr. R. Thiagarajan
For R1	: Dispensed with
For R2	: Mr. J. Michael Visvasam



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant against the award of the Tribunal dated 29.10.2013 in M.C.O.P.No.716 of 2009, by the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry.

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

3. The appellant is the claimant who suffered injuries in the road accident held on 22.12.2008 at about 10.30 p.m. While he was walking on the left side of Kamaraj Salai, from West – East Direction, near JIPMER Main Gate, at that time, a two-wheeler bearing Registration No.PY 01 W 9914, driven by its driver in the rash and negligent manner, dashed against him, in which, the petitioner was knocked down. Due to which, the petitioner sustained grievous head injuries and immediately he was taken to the JIPMER Hospital, Puducherry and in-patient treatment was given. The petitioner filed Claim Petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by him in the road accident.



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4. The first respondent herein is the owner of the two-wheeler was not contested the claim. The second respondent is the insurer of the said vehicle contested the claim and filed counter, contended that the accident occurred due to the rash and negligent driving of the driver of the two-wheeler. The petitioner has to prove that the driver of the two-wheeler was having valid driving licence. The petitioner has to prove the age, avocation, income and the accident was occurred and the nature of injuries sustained by him in the road accident. In any event, the compensation awarded to the claimant is on the higher side and prays to dismiss the Claim Petition.

5. Before the Tribunal, on the side of the petitioner P.W.1 was examined and Exs.P1 to P14 were marked. On the side of the respondents, R.W.1 was examined and Exs.R1 and R2 were marked.

6. After considering the evidence placed on record, the Tribunal in point No.1 has held that the accident occurred, due to the rash and negligent riding of the driver of the motor-cycle, the first respondent. In Point No.2, the Tribunal has held that the driver of the motor-cycle was having valid driving licence, at the time of accident. In point No.3, the



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Tribunal has awarded a sum of Rs.20,000/- as compensation with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit, along with costs. The claimants having not been satisfied with the award amount, has filed this appeal seeking enhancement of compensation.

7. The learned counsel for the appellant/claimant submitted that the appellant has produced Wound Certificate before the Tribunal and the same has not been properly appreciated and award has been passed. The nature of injuries sustained by him is grievous in nature and prays to enhance the compensation awarded.

8. Per Contra, the learned counsel appearing for the second respondent/Insurance Company has contended that there is no materials produced before the Tribunal to show that the claimant has sustained grievous injuries and has not produced any medical records in support of his claim and prays to dismiss the appeal.



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9. Considering the only record produced before the Tribunal, to prove the injury sustained by the claimant is Ex.P6-Wound Certificate, the Tribunal has held that the claimant has sustained simple injury. On perusal of the same, it shows that, he was admitted immediately after the accident before the JIPMER Hospital, Puducherry. It is recorded that tenderness in the left knee. In the Wound Certificate, it is also recorded that the injury sustained by the injured is grievous in nature. After undergone treatment, he was discharged from the Hospital. But no evidence produced before the Tribunal, to show that what kind of grievous injury, the injured has sustained.

10. The claimant has not produced any records relating to treatment undergone by him subsequent to the accident. There is no clear evidence produced by the claimant to prove his case whether these injuries sustained by him has caused any disability to him. Ex.P6-Wound Certificate only states that he was admitted into the hospital and was examined by the Doctor and sustained injuries while he was walking and hit by the two-wheeler.



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11. In the absence of any medical records relating to treatment or to show that the claimant sustained any disability due to the accident, the Tribunal has no other option except to treat the accident as the case of simple injury and accordingly, the Tribunal has already awarded a sum of Rs.20,000/- as compensation along with interest, this Court finds no infirmity in the above finding of the Tribunal. Accordingly, the appeal filed by the claimant is liable to be dismissed.

12. In the result, the Civil Miscellaneous Appeal is dismissed. The award passed by the Tribunal, in M.A.C.T.O.P.No.716 of 2009, dated 29.10.2013 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Puducherry, is confirmed. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition stands closed if any.

26.07.2023

ssi

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To
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- 1.The Principal Subordinate Judge,
Presiding Officer,
Motor Accident Claims Tribunal,
Pondicherry.
- 2.The Section Officer,
VR Section,
High Court,
Madras.



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K.RAJASEKAR,J.

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