



C.M.A.No.1756 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1756 of 2020

And

C.M.P.No.12893 of 2020

United India Insurance Company Limited,
Third Party Hub, Silinghi Building,
No.134, Greams Road,
Chennai – 600 006.

... Appellant

Vs.

1.Venkatesan @ Viji
2.S.Sridharan

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 30.01.2020 made in M.C.O.P.No.9024 of 2015 on the file of Motor Accidents Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai.

For Appellant : Mr.C.Paranthaman
For Respondents : R1 & R2 – No Appearance

J U D G M E N T

The second respondent Insurance Company before the Motor



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Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 30.01.2020 passed by the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai, in M.C.O.P.No.9024 of 2015.

2.The brief facts of the case is that on 03.11.2015, at about 16.00 hours, when the first respondent was doing painting work in the ladder at Kodungaiyur Ezhil Nagar, "B" - Block, 4th Street, in front of Door No.30/44, Chennai 600 118, a TVS XL Super bearing Registration No.TN 03 L 9897 proceeding from West to East came in a rash and negligent manner and dashed against the ladder, due to which, the ladder fell down and the first respondent sustained injuries.

3.Thereafter, the injured claimant/ first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.8 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.7,44,200/- as compensation with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 15.12.2015 till the realization and costs and



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directed the appellant Insurance Company to deposit the compensation. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4.The learned counsel appearing for the appellant submitted that without any authority, the first respondent painter was doing painting work in the ladder which was standing on the road and thereby the accident happened and without fixing any negligence on the part of the claimant, the Tribunal fastened the entire liability as against the Insurance Company which is not sustainable. Further, there is no functional disability and there is no proof to show that after the accident, the claimant was not able to continue his avocation as before. However, the Tribunal adopted the multiplier method and awarded compensation, which is not sustainable.

5.Heard the learned counsel appearing for the appellant and perused the materials available on record. There is no representation for the respondents.

6.The facts in the present case is not in dispute. Admittedly, the first respondent claimant was doing painting work by standing in



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the ladder. At that time, the vehicle insured with the appellant came in a rash and negligent manner and dashed against the ladder, due to which, the ladder fell down and the first respondent sustained fracture. The Doctor has assessed the disability as 52% permanent physical disability. Since the claimant is a painter and has to do the painting work by standing and due to the fracture sustained by him in the accident, he would not be able to continue his avocation as before, the Tribunal has awarded compensation by adopting multiplier method, which warrants no interference.

7.Insofar as the quantum of compensation is concerned, the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable, which warrants no interference.

8.In view of all the above, the civil miscellaneous appeal is dismissed. The judgment and decree dated 30.01.2020 passed by the Motor Accidents Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai, in M.C.O.P.No.9024 of 2015, is confirmed.



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9.The appellant Insurance Company is directed to deposit the entire award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the first respondent / claimant is permitted to withdraw the entire award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

20.12.2023

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(Special Sub Court No.1, Motor Accidents Claims Petitions),
Small Causes Court, Chennai.



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M.DHANDAPANI,J.
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