



C.M.A.No.274 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.274 of 2014

M.Perumal

... Appellant

Vs.

1.N.Pulikodi

2.The United India Insurance Company,
Divisional Office – I, Peramanur Main Road,
Salem – 7.

3.National Insurance Company Limited,
Divisional Office – I,
LRN Complex,
Sarada College Main Road,
Salem – 7.

(Notice to R1 and R3 may be
dispensed with for the time being)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in M.C.O.P.No.328 of 2008 on the file of the Motor Accident Claims Tribunal Cum II Additional Subordinate Judge, Salem dated 07.02.2013 and for enhancement of compensation.



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For Appellant : Mr.SP.Yuvaraj
For Respondents : R1 – No Appearance
Mr.M.J.Vijayaraghavan for R2
Mr.S.Arun Kumar for R3

J U D G M E N T

This appeal has been filed by the appellant/ claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal Cum II Additional Subordinate Judge, Salem, in the order dated 07.02.2013 in M.C.O.P.No.328 of 2008.

2.The appellant/ claimant had filed claim petition in M.C.O.P. No.328 of 2008 before the Motor Accidents Claims Tribunal, claiming a sum of Rs.11 Lakhs as compensation for the injuries sustained by him and the Tribunal vide order dated 07.02.2013 awarded a sum of Rs.7,35,512/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit with proportionate cost as compensation. Aggrieved by the same, for enhancement the claimant has preferred this appeal.

3.The learned counsel appearing for the appellant reports 'no instructions'.



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4.The learned counsel appearing for the second respondent Insurance Company submitted that on 29.05.2007 at about 4.00 a.m., the appellant was driving the lorry bearing Registration No. TN 28 B 2727 from Attur – Salem and when the vehicle was coming near Mangalapuram at Valappadi Pirivu Road another lorry bearing Registration No.TN 25 A 6057 came in a rash and negligent manner from the opposite direction and dashed against the vehicle driven by the appellant, due to which, the appellant's left leg was amputated. Hence, the appellant filed claim petition under Section 163 – A of the Motor Vehicles Act, before the Motor Accidents Claims Tribunal, claiming a sum of Rs.11 Lakhs as compensation for the injuries sustained by him. The driver and cleaner of the lorry which came in the opposite direction preferred a complaint against the appellant before the Mangalapuram Police Station and after trial, the learned Judicial Magistrate, Rasipuram acquitted the appellant.

5.The learned counsel appearing for the second respondent further submitted that the Tribunal after considering all the factual aspects held that the claim petition itself has been preferred under Section 163–A of the Motor Vehicles Act. When a claim of



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compensation in respect of the death or permanent disability is made under Section 163-A of the Motor Vehicles Act, the claimant shall not be required to either plead or prove any negligence or fault on the part of the opposite party against whom such claim is made and awarded a sum of Rs.7,35,512/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit with proportionate cost as compensation to the appellant. The learned counsel further submitted that though the appellant need not prove the negligence on the part of the opposite party, the Tribunal is entitled to fix liability on the part of the appellant, however, the Tribunal awarded the compensation.

6.Heard and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, on 29.05.2007 at about 4.00 a.m., the appellant was driving the lorry bearing Registration No. TN 28 B 2727 from Attur – Salem and when the vehicle was coming near Mangalapuram at Valappadi Pirivu Road another lorry bearing Registration No.TN 25 A 6057 came in a rash and negligent manner from the opposite direction and dashed against the vehicle driven by the appellant, due to which, the appellant's left



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leg was amputated. The driver and cleaner of the lorry which came in the opposite direction preferred a complaint against the appellant before the Mangalapuram Police Station and after trial, the learned Judicial Magistrate, Rasipuram acquitted the appellant.

8.The Tribunal after considering all the factual aspects held that the when a claim of compensation in respect of the death or permanent disability is made under Section 163-A of the Motor Vehicles Act, the claimant shall not be required to either plead or prove any negligence or fault on the part of the opposite party against whom such claim is made and awarded a sum of Rs.7,35,512/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit with proportionate cost as compensation to the appellant, which is just and reasonable and hence the impugned order warrants no interference.

9.The civil miscellaneous appeal stands dismissed. The judgment and decree dated 07.02.2013 made in M.C.O.P.No.328 of 2008 by the Motor Accident Claims Tribunal Cum II Additional Subordinate Judge, Salem, is confirmed.



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10.The second respondent/ 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 order, if not already deposited. On such deposit, the appellant/ claimant is permitted to withdraw the entire compensation amount with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

11.The civil miscellaneous appeal is dismissed. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal Cum
II Additional Subordinate Judge, Salem.



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