



C.M.A.No.1816 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1816 of 2020

K.Nanthagopal

... Appellant

Vs.

1.K.Thangavel

2.United India Insurance Company Limited,
No.2, Dr.Sankaran Road,
Namakkal Town, Namakkal Taluk.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 06.10.2020 in M.C.O.P.No.906 of 2015 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Namakkal.

For Appellant : Mr.R.Nalliyappan

For Respondents : No appearance [R1]
Mr.A.Dhiraviyanathan [R2]

JUDGEMENT

The claimant is before this Court seeking an enhancement of the award passed by the Motor Accident Claims Tribunal (Additional



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District Judge), Namakkal in M.C.O.P.No.906 of 2015, dated 06.10.2020.

2. As per the claim petition, on 14.05.2015 at about 3.30 p.m., when the claimant was proceeding on the Dharmapuri – Salem four lane road riding a Hero Honda Splendor motorcycle, a mini bus bearing Reg.No.TN-30-AW-9969 belonging to the first respondent and insured with the second respondent, driven by its driver in a rash and negligent manner and without exhibiting any signal, suddenly applied brake, as a result of which, the claimant's motorcycle rammed on the rear side of the bus resulting in an accident. Due to the accident, the claimant sustained grievous injuries. Thereafter, he filed a claim petition before the Tribunal claiming a total compensation of a sum of Rs.5,00,000/- for the injuries sustained by him in the said accident in M.C.O.P.No.906 of 2015.

3. Before the Tribunal, the claimant examined himself as P.W.1 examined the doctor as P.W.2 and marked 9 documents viz., Ex.P.1 to Ex.P.9. On the side of the second respondent/insurance company, they have examined two witnesses viz., R.W.1 and R.W.2 and marked 2



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documents viz., Ex.R.1 and Ex.R.2. After adjudication, the Tribunal by its award dated 06.10.2020 awarded compensation in a sum of Rs.50,000/- with an interest of 7.5% p.a. Not satisfied with the same, the claimant has preferred the present appeal.

4. The learned counsel appearing for the appellant/claimant submitted that, though P.W.2 assessed the disability of the claimant at 25% on the ground that the claimant had sustained injuries on jaws and cheek, however, the Tribunal has not awarded compensation towards disability, which is wholly unsustainable. He further submitted that the compensation awarded under the various heads are meagre and the same requires to be enhanced. Accordingly, he prays for allowing the appeal.

5. Per contra, the learned counsel appearing for the second respondent submitted that, by considering all the materials on records, the Tribunal has awarded compensation in favour of the claimant under various heads, which are just and reasonable and the same does not require any interference. Accordingly, he prays for dismissal of the appeal.



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6. Heard the learned counsel appearing for the appellant/claimant as well as the second respondent/insurance company and also perused the materials available on record.

7. A perusal of the entire papers including the award passed by the Tribunal below would show that the Tribunal had arrived at a conclusion that no medical record was placed before the Tribunal to establish the disability of the claimant assessed by the doctor/P.W.2. Further, a perusal of wound certificate and discharge summary, which are marked as Ex.P.2 and Ex.P.3 reveals that the claimant has sustained only lacerated injuries all over his body and no fracture over the jaws and cheek. Hence, in the absence of clinching medical evidence to establish that the injuries sustained by the claimant has caused disability to him, the Tribunal has rightly not awarded any amount towards disability, which appears to be in order. Further, this Court is of the view that the compensation awarded by the Tribunal under the various heads are just and reasonable and does not require interference. Therefore, this Court is not inclined to interfere with the award passed by the Tribunal.



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8. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 06.10.2020 made in M.C.O.P.No.906 of 2015 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Namakkal is confirmed. The second respondent/ insurance company is directed to deposit the award amount as awarded by the Tribunal to the credit of M.C.O.P.No.906 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of two (2) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.,

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To

1.The Motor Accidents Claims Tribunal (Additional District Judge),
Namakkal.

2.The Section Officer, V.R.Section, High Court, Madras.

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