



C.M.A.Nos.1177 & 1178 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.Nos.1177 & 1178 of 2017

K.Munisekar ...Appellant in C.M.A.No.1177 of 2017

S.Balarama Reddy ...Appellant in C.M.A.No.1178 of 2017

Vs.

1. M.Saravanan

(R1 remained *exparte* before the Tribunal, hence his presence may be dispensed with.)

2. Reliance General Insurance Company Limited,

Raj's Tower, 2nd Floor,

Plot No.2504, 2nd Avenue,

Anna Nagar, Chennai – 600 040. ...Respondents in both CMA's.

Prayer in CMA.No.1177 of 2017: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the Judgement and Decree dated 10.06.2016 made in M.A.C.T.O.P.No.725 of 2013 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

Prayer in CMA.No.1178 of 2017: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 10.06.2016 made in M.A.C.T.O.P.No.2503 of 2013 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.



C.M.A.Nos.1177 & 1178 of 2017

WEB COPY **In both C.M.A's.:**

For Appellant : Ms.A.Subadra
for Ms.M.Malar

For Respondents : Mr.P.Suresh Srinivasan, for R2

COMMON JUDGEMENT

Since both the appeals are arising out of the very same accident, they are disposed of by way of this common judgment.

2. Aggrieved by the common Judgement and Decree dated 10.06.2016 made in M.A.C.T.O.P.Nos.725 & 2503 of 2013 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, the appellants have come up with these Appeals.

3. The brief case necessary for disposal of these Appeals are as follows:

The case of the appellants is that, on 13.10.2011 at about 01.30 pm., the appellants were riding in a motorcycle bearing Regn.No.AP-03-



C.M.A.Nos.1177 & 1178 of 2017

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AM-3686 on Tirupathi-Tiruttani Main Road at O.G.Kuppam Cross road, and when they crossed the bye pass road and were proceeding on the left side of the road towards Renigunta side, the 1st respondent drove the Innova Car bearing Regn.No.TN-45-AD-6600 in a rash and negligent manner and dashed against the appellants, as a result of which, the appellants sustained grievous injuries all over their body. Therefore, the appellants filed claim petitions, claiming a compensation of Rs.6,00,000/- each, in which, the Tribunal passed the present impugned award fixing a compensation of Rs.2,40,100/- and Rs.45,000/- respectively. Aggrieved with the said order, the present appeals have been filed by the claimants seeking enhancement of compensation fixed.

4. Learned counsel appearing for the appellants submitted that, in respect of the rider/Munisekar, the appellant in CMA.No.1177 of 2017, though the Doctor assessed the disability at 45%, the Tribunal had taken only 30% disability and awarded a sum of Rs.90,000/- towards the injuries and in respect of the pillion rider/S.Balarama Reddy, the appellant in CMA.No.1178 of 2017, though the Doctor assessed the disability at 40%, however, the tribunal has not accepted the same and no



C.M.A.Nos.1177 & 1178 of 2017

compensation was awarded towards the injuries on the ground that, the Doctor who had treated the said Balarama Reddy initially, had not assessed the disability, but it was assessed by the person, who had not treated the claimants. Further, the compensation awarded under other heads are also very meagre and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

5. Learned counsel appearing for the 2nd respondent submitted that, after carefully considering all the relevant documents placed before it, the Tribunal had rightly awarded a compensation of Rs.2,40,100/- and Rs.45,000/- respectively, which is perfectly in order and the same does not require any enhancement. Accordingly, he prays for dismissal of these appeals.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of



C.M.A.Nos.1177 & 1178 of 2017

compensation awarded.

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8. A perusal of the materials placed on record reveals that, admittedly, an independent Doctor had assessed the disability sustained by the appellants and not the Medical Board. The major contention of the appellants is that, though the Doctor had assessed disability percentage at 45% and 40% respectively, however, the Tribunal had taken into consideration only 30% disability in respect of the rider and no disability was taken into consideration in respect of the pillion rider.

9. In the said accident, the said Muniesekar/rider is alleged to have sustained *closed fracture of shaft of left femur* and the said Balarama Reddy is alleged to have sustained *grade 1 compound fracture of tibia left*. In respect of the the above said injuries sustained by the appellants, while the Munisekar, the rider had marked documents to prove the injuries sustained by him, however, Balarama Reddy has not submitted relevant documentary evidence in support of the injuries sustained by him. Further, the documents submitted by Munisekar also not being assessed by a Medical Board, the Tribunal had gone on to fix the disability of Munisekar, viz., the rider at 30%. However, in respect of



C.M.A.Nos.1177 & 1178 of 2017

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Balarama Reddy, in the absence of any evidence or documents filed with regard to the treatment at the earliest point of time, given by the doctor, the assessment by another doctor, who had not seen the injured with the injury at the relevant point of time cannot form the basis to determine the disability and, therefore, rightly, the Tribunal has rejected the said finding of disability at 40%. The above said view arrived at by the Tribunal in respect of the two claimants cannot be faulted with as they are based on proper appreciation of materials placed before it and, therefore, the said determination does not warrant any interference.

10. Accordingly, these Civil Miscellaneous Appeals stand dismissed and the common judgment and decree dated 10.06.2016 made in M.A.C.T.O.P.Nos.725 & 2503 of 2013 is confirmed. No costs.

19.10.2023

skt

Index : Yes / No

Speaking order : Yes / No

NCC : Yes / No

To

1.The Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai.



C.M.A.Nos.1177 & 1178 of 2017

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

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C.M.A.Nos.1177 & 1178 of 2017

M.DHANDAPANI, J.

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C.M.A.Nos.1177 & 1178 of 2017

19.10.2023