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C.M.A.No.2815 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2815 of 2017
and C.M.P.No.16109 of 2017

Sankaranarayanan

...Appellant

Versus

Ammasi

... Respondent

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the judgment and decree dated 20.01.2017 made in MACT O.P.No.3805 of 2012 on the file of the Motor Accident Claims Tribunal cum First Additional Sub Judge at Cuddalore.

For Appellant : Mr.B.B.Sendhilkumar

For Respondent : Mr.N.Kadhiresan

J U D G M E N T

This Civil Miscellaneous Appeal arises against the award passed by learned First Additional Sub Judge at Cuddalore (Motor Accident Claims Tribunal in M.C.O.P.No.3085 of 2012 on 20.01.2017.

1/6p



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2. It is the case of the appellant that on 25.07.2012 at about 15.00 hours, when the respondent was riding his Hero Motor Cycle bearing Registration No.TN-31-AP-2120 with a pillion rider at a normal speed on Sethiyathoppe Kuturoad, the appellant's Hero Hondo Motor Cycle bearing Registration No.PY-01-AH-9747 came in a rash and negligent manner without making horn and dashed against the respondent. As a result of the accident, the respondent sustained multiple grievous injuries and took treatment as in-patient for 20 days. Hence, the respondent has filed a petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation from the appellant together with interests and costs for the injuries sustained by him.

3. Before the Tribunal, on behalf of the claimant, the claimant and a doctor were examined and seven exhibits were marked. None were examined on the side of respondents nor were any exhibits marked.

4. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

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(a)Disability	: Rs. 1,72,800/-
(b)Pain and Suffering	: Rs. 50,000/-
(c)Extra Nourishment	: Rs. 5,000/-
(d)Attender Charges	: Rs. 5,000/-
(e)Loss of Amenities	: Rs. 30,000/-
(f)Damages to Clothes	: Rs. 1,000/-
(g)Loss of Income	: Rs. 60,000/-
(h)Transport Charges	: Rs. 5,000/-

Rs. 3,28,000/-

The said sum was directed to be paid by the appellant along with interest at 7.5% per annum from the date of petition till the date of deposit of the award amount.

5. Learned counsel for the appellant submits that in the certified copy of FIR in Cr.No.197/2012 produced by the claimant before the Court below, the registration of the offending vehicle was mentioned as PY-01-AH-9749 in one place and in another place, it was mentioned as PY-01-AH-9747. Therefore, what is the correct registration number of the offending vehicle and who is responsible for the accident are to be ascertained. Without doing so, the Tribunal has proceeded to deal with the case and passed the award.



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6. Heard learned counsel for the respondent on the above submission.

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7. In view of the submission made by the learned counsel appearing for the appellant, this Court is of the view that it would be appropriate to remand the matter back to the Motor Accident Claims Tribunal cum First Additional Sub Judge at Cuddalore for reconsideration.

8. Accordingly, the order passed by the learned First Additional Sub Judge at Cuddalore (Motor Accident Claims Tribunal in M.C.O.P.No.3085 of 2012 on 20.01.2017 is set aside and the matter is remanded back to the Court below for fresh consideration.

Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs. Connected miscellaneous petition is closed.

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Index:yes/no
Internet:yes/no
mp

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To
The Motor Accident Claims Tribunal,
First Additional Sub Judge at Cuddalore



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A.A.NAKKIRAN.J.,

mp

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