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C.M.A.No.324 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.324 of 2019

Anbazhagan (minor),
Represented by his father and
natural guardian Mr.K.Krishnamurthy ... Appellant / Petitioner

(Sole appellant declared as a major and
discharged the guardianship vide order dated
02.03.2017 by SVJ made in C.M.P.Nos.3047 and
3048 of 2017 in C.M.A.SR.No.11786 of 2017)

Vs.

1. V.Manikandan
S/o.Velayutham

2. The New India Assurance Company Limited,
11-19, 20, Government Arts College Road,
Coimbatore - 18. ... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.07.2011 made in M.C.O.P.No.245 of 2006 on the file of the Motor Accidents Claims Tribunal, I Additional Subordinate Judge, Villupuram.

For Appellant : Mr.R.Prabudoss

For Respondents : No appearance for R1
Mr.J.Chandran for R2



J U D G M E N T

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This appeal has been filed by the appellant / claimant, represented by his father, viz., Krishnamurthy aggrieved by the dismissal of the claim petition for compensation for the injury sustained by the appellant while he was minor. Thereafter, after attaining majority, by the order of this Court dated 02.03.2017 in C.M.P.Nos.3047 and 3048 of 2017 in C.M.A.SR.No.11786 of 2017, he was declared major.

2. The Motor Accidents Claims Tribunal, I Additional Subordinate Judge dismissed the M.C.O.P.No.245 of 2006 on the ground that the vehicle involved in the accident was different one from the one stated in the insurance policy produced by the claimant before the Tribunal and on that sole reason, the Tribunal rejected the claim of the claimant. Aggrieved by the same, the present appeal has been filed.

3. The injured / claimant who was the school student then, aged about 12 years was returning after selling milk on 29.12.2005 at about 7.00 a.m. At that time, a mini lorry bearing Registration No.TN-57-V-3421 driven in a rash and negligent manner, dashed against the minor claimant and sustained



grievous injuries. Hence, the claimant filed M.C.O.P.No.245 of 2006 before the Motor Accidents Claims Tribunal, I Additional Subordinate Judge, Villupuram claiming a sum of Rs.5,00,000/- as compensation.

4. The first respondent remained ex-parte before the Tribunal.

5. The learned counsel appearing for the second respondent / Assurance Company denied the allegations made in the claim petition and stated that the vehicle did not have a valid insurance and that the driver did not have a valid license. Further, the age, income and occupation of the injured were disputed. Hence, the learned counsel prays for dismissal of the appeal.

6. Before the Tribunal, on the side of the claimant, two witnesses were examined as P.W.1 and P.W.2 and documents were marked as Exs.P1 to P12. No witnesses were examined nor any documents were marked on the side of the respondents. The Tribunal, after considering the materials placed before it came to a conclusion that the erred vehicle is TN-57-V-3421. Ex.P9 is the copy of the insurance policy of the vehicle bearing Registration



No.TN-33-Y-3421. Therefore, the Tribunal came to the conclusion that the erred vehicle bearing registration No.TN-57-V-3421 did not match with the vehicle number mentioned in the insurance policy and that the appellant / claimant has not taken steps to secure the correct insurance particulars for the erred vehicle. The Tribunal concluded that when the vehicle is not insured, the appellant / claimant is not entitled to claim compensation from the respondents. Citing the above grounds, the Tribunal rejected the claim petition. Hence, the present appeal has been filed.

7. The learned counsel appearing for the appellant contended that though the appellant / claimant had suffered permanent disability, the Tribunal had dismissed the claim petition and therefore, he requested this Court to refer the appellant to the Medical Board for assessment of disability. Accordingly, a report was submitted on 15.12.2023 by the Chairman, Regional Medical Board, Government Villupuram Medical College and Hospital, Villupuram stating that the disability of the claimant is 10%, which is permanent in nature.



8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. There was a little confusion with regard to the registration number mentioned in the FIR and in the insurance policy. Therefore, it was necessitated to ascertain the correct details of the registration number of the vehicle that was involved in the accident. Admittedly, in the FIR, the vehicle number is mentioned as TN-57-V-3421, whereas, in the insurance policy, it has been mentioned as TN-33-Y-3421. Hence, the claim petition was rejected based on that sole ground.

10. In order to ascertain the facts, this Court called for the records. On perusal of the RC Book and MV Report, it is seen that RC Book stood in the name of one K.J.V.Manoharan, S/o.K.J.Venkataraju Naidu, Door No.26, Jeevanandam Post, Palani, subsequently the same has been transferred to several names and lastly in the name of purchaser, viz., V.Manikandan, S/o.Velayutham, Door No.9A, Murugapalayam, Tiruppur, who is the first respondent herein. The copy of the insurance policy shows that the period of



insurance was effective from 20.01.2005 to 19.01.2006. However, the accident has happened on 29.12.2005 during the policy period and therefore, the Assurance Company is liable to pay compensation. Further, on verifying whether the vehicle number mentioned as TN-57-V-3421 tallies with the Engine and Chasis number mentioned in the Insurance Copy - Ex.P9, it is found that the said details tallies, however the vehicle number alone is mentioned as TN-33-Y-3421 in the insurance policy. Therefore, this Court has no hesitation to arrive at a conclusion that the vehicle owned by the first respondent is involved in the accident. However, the Assurance Company wrongly mentioned the Registration Number as TN-33-Y-3421 instead of TN-57-V-3421 in the insurance policy. This factum of error in mentioning the registration number of the vehicle in the insurance policy is accepted by the learned counsel for the Assurance company before this Court during the hearing today. Hence, the Assurance Company is liable to pay compensation.

11. With respect to the percentage of disability, this Court on perusing the disability claimed in the claim petition at the time of accident and the disability assessed now by the Medical Board by report dated 15.12.2023,



on the basis of the documents placed before this Court and the age of the injured at the time of the accident, is inclined to arrive at a conclusion that the disability sustained by the appellant / claimant at the time of accident would have been 60% permanent disability. Though, due to passage of time, the same could have been reduced to some extent now probably because of the treatments he had undergone, taking into consideration the age of the injured at the time of the accident and the disability suffered by him at that point of time during his childhood, this Court, on the basis that the disability sustained at the time of accident is 60%, is inclined to fix the compensation as per the below calculations.

12. In the above circumstances, this Court is inclined to fix the compensation under the below mentioned heads :-

S.No	Head of Compensation	Amount awarded by this Court (Rs)
1.	Disability (60% X 2,000/-)	Rs.1,20,000/-
2.	Pain and Sufferings	Rs.25,000/-
3.	Attender Charges	Rs.10,000/-
4.	Medical Expenses	Rs.10,000/-
5.	Transportation	Rs.5,000/-
	Total	Rs.1,70,000/-



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13. In the result, this civil miscellaneous appeal is allowed in part and this Court awards a compensation of Rs.1,70,000/- to the appellant / claimant together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Assurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.245 of 2006 on the file of the Motor Accidents Claims Tribunal, I Additional Subordinate Judge, Villupuram. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs by making proper application before the Tribunal. No costs.

15.12.2023

Index :Yes / No

Speaking Order :Yes / No

Neutral Citation Case: Yes / No

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To

1. The Motor Accidents Claims Tribunal,
I Additional Subordinate Judge,
Villupuram.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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M.DHANDAPANI, J.

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