



C.M.A.No.2941 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2941 of 2019

and

CMP.No.15590 of 2019

1.Reliance General Insurance Co.,Ltd.,
Rep by its Manager,
Sri Lakshmi Complex, First Floor,
Bharathi Street, Omalur,
Main Road, Swarnapuri
Salem – 636 004.

2.Reliance General Insurance Co.Ltd.,
Rep by its Manager,
No.408, 3rd Floor,,
Perundurai Road, Erode – 638 011.

... Appellants

..Vs..

1.Ramalingam
2.M.Jayashankar
3.G.Jayavelu
4.Sri Ram General Insurance Co., Ltd.,
Rep by its Manager, 10003-E-8,
Reko Industrial Area, Siddapura,
Jaipur, Rajasthan – 302 022.
5.Silambarasan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 30.09.2015



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made in MCOP.No.264 of 2011 on the file of the Motor Accidents Claims

Tribunal (IV Additional District Court, Bhavani, Erode District)

For Appellants : Mr.S.Arunkumar

For Respondents : Mr.K.Poomalai for R4

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants to set aside the impugned award dated 30.09.2015 passed in MCOP.No.264 of 2011 by the Motor Accident Claims Tribunal (IV Additional District Court, Bhavani, Erode District).

2. On 29.03.2011 at 12.00 p.m., when the claimant who was driver-cum-cleaner of a Eicher Van bearing Registration No.TN-29-AW-0334 proceeding from Sankari to Erode on the main road, near Ottamethai Sullikadu at Pallipalayam with loaded turmeric bags, a lorry bearing Regn. No.TN-30-S-4788 going in front of the van, the second respondent, who is the driver of the lorry suddenly stopped the lorry on the middle of the road due to which the claimant, though applied brake, dashed the van behind the lorry. Due to the said accident, the claimant sustained simple and grievous



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injuries all over the body. Thereafter, he has been taken to the Government Hospital, Erode for first aid treatment and admitted in Dharun Hospital Salem as in-patient. Claiming compensation of a sum of Rs.5,00,000/-, the claimant has filed a petition in MCOP.No.264 of 2011 before the Motor Accidents Claims Tribunal, IV Additional District Court, Bhavani, Erode District.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging the third respondent and directed the appellants 1 and 2 and 5th respondent to pay jointly and severally a sum of Rs.2,00,950/- as compensation to the first respondent/claimant.

4.Aggrieved against the said award dated 30.09.2015 made in M.C.O.P.No..264 of 2011, the appellants-Insurnace Companies have come out with the present appeal.



5. The learned counsel appearing for the appellants/Insurance

Companies contended that the award and decree of the Tribunal is contrary to law, weight of evidence and probabilities of the case. It has failed to note PW2 is not a competent expert witness to assist the court in arriving at correct assessment. It erred in relying on the exaggerated assessment of PW2 as he has failed to annex the working sheet and guidelines followed enabling to testify the disablement certified by him. It failed to note that the alleged injuries do not result to permanent disability muchless to the extent of 40%. It has also erred in awarding Rs.1,20,000/- towards permanent disability on assumptions and presumptions. Thus, the award of the Tribunal is irrational, unjust and excessive and liable to be set aside. Hence, they pray for setting aside the award passed by the Tribunal.

6. Per contra, the learned counsel appearing for the first respondent contended that the driver of the lorry suddenly stopped the lorry on the middle of the road without any signal and indication at night time and hence the claimant/first respondent is unable to escape from the mishap and dashed the van behind the lorry though he applied brake. The accident



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occurred only due to rash and negligent driving by the driver of the lorry belonging to the third respondent. The appellants has not let in any evidence to prove their contention that accident has occurred due to rash and negligent driving of the driver of the van. The Tribunal has granted only a sum of Rs.2,00,950/- as compensation and the same is not excessive and prayed for dismissal of the appeal.

7.Heard the learned counsel for the appellants as well as the learned counsel for the fourth respondent and perused the entire materials available on record.

8. From the materials available on record, it is seen that the first respondent/claimant has contended that the accident has occurred only due to rash and negligent driving of the driver of the lorry belonging to the third respondent. To substantiate his contention, first respondent was examined as P.W.1, who deposed the manner of the accident. To corroborate the evidence of P.W.1, the first respondent marked Ex.P1/F.I.R. and Ex.P2/copy of Observation Mahazar. The 5th respondent gave complaint in the



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Pallipalayam Police Station which was marked as Ex.P5. According to Ex.P5, the driver of the lorry is made responsible for the accident. The 5th respondent has submitted that he possess valid driving license at the time of accident and insurance policy coverage from 15.12.2010 to 14.12.2011. Thus the evidence of 5th respondent corroborated with the deposition of RW1. Hence the driver of the lorry caused the accident by suddenly stopping the lorry without any signal and indication. In the absence of any contra evidence, the Tribunal accepted the evidence of P.W.1 which was corroborated with the Ex.P1 and Ex.P2 and deposition of RW1 and held that the accident has occurred only due to rash and negligent driving by the driver of the lorry belonging to the third respondent. There is no error in the above finding of the Tribunal warranting interference by this Court.

9.As far as quantum of compensation is concerned, the Tribunal has awarded a total sum of Rs.2,00,950/- as compensation for the injuries sustained by the claimant/first respondent, which is not excessive. There is no error in the award passed by the Tribunal warranting interference by this Court.



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10.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.2,00,950/- awarded by the Tribunal as compensation to the first respondent/claimant along with interest and costs is confirmed. The appellants 1 and 2 and 5th respondent are directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.264 of 2011 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Bhavani, Erode. On such deposit, the Tribunal is directed to transfer the amount to the account of the claimant/first respondent within two weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No
Internet : Yes/No
gv

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A.A.NAKKIRAN, J.

gv

To

1.The Motor Accidents Claims Tribunal
(Special Sub- Court No.1, Villupuram).

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

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and
CMP.No.15590 of 2019**

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