



C.M.A.(MD).No.707 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.707 of 2019

K.Ganapathy

..... Appellant / Respondent

-VS-

S.Revathi

.... Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal is filed under Section 173(1) of the Motor Vehicle Act, 1988, against the fair and decretal order passed by the learned Chief Judicial Magistrate cum Motor Accidents Claims Tribunal, Nagercoil in M.C.O.P.No.70 of 2017, dated 18.09.2018.

For Appellant : Mr.K.P.Narayanakumar
For Respondent : Mr.C.Sankar Prakash

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant, challenging the Award passed by the Motor Accidents Claims Tribunal cum learned Chief Judicial Magistrate, Nagercoil in M.C.O.P.No.70 of 2017, dated 18.09.2018, questioning the involvement of the vehicle and the quantum.



C.M.A.(MD).No.707 of 2019

WEB COPY

2. According to the learned counsel appearing for the claimant, the claimant was walking on 04.08.2016 at about 5.00 p.m in the main road east-west direction and the TVS 50 bike belonging to the respondent came from the back side, driving in a rash and negligent manner, dashed against the petitioner. Due to the said accident, the petitioner had sustained injuries and she was admitted to the nearby hospital.

3. An FIR was registered as against the respondent on 06.08.2016. Thereafter, the claim petition has been filed seeking compensation of sum of Rs.10,00,000/- (Rupees Ten Lakhs only) for the injuries sustained in the accident.

4. The respondent's vehicle was not insured with any Insurance Company and the respondent had filed a counter disputing the involvement of the vehicle and also contending that he never drove the vehicle on the said way in the said place. The Tribunal, after considering the oral or documentary evidence, has arrived at a finding that it really the vehicle of the respondent was put up in the case, the respondent would have lodged a complaint to the



C.M.A.(MD).No.707 of 2019

police officials or to the Court. However, the respondent has not raised any complaint. Therefore, the Tribunal has arrived at a finding that the vehicle of the respondent was involved in the said accident and the said vehicle was responsible for the injuries sustained by the injured claimant.

5. The Tribunal further found that the claimant has sustained grievous injuries and two simple injuries and for pain and sufferings and for loss of amenities, based upon the medical bills and for future medical bills and attender charges, transport expenses under all the heads, the Tribunal awarded a sum of Rs.1,76,839/- (Rupees One Lakh Seventy Six Thousand Eight Hundred and Thirty Nine only) based upon Ex.P.6 - Wound Certificate, Ex.P.7- Discharge Summary, Ex.P8- Medical Bills and Ex.P.10 to Ex.P.13- records. Challenging the said award, the present appeal has been filed by the owner of the vehicle.

6. According to the learned counsel appearing for the appellant, though the vehicle belongs to the appellant, it was not at all involved in the said accident. He had further contended that though the accident had taken place on 04.08.2016, the place is very nearby to the Police Station, but FIR was not



C.M.A.(MD).No.707 of 2019

registered on the same day. FIR came to be registered only on 06.08.2016.

The delay in lodging the FIR naturally created suspicion and it could be seen that the vehicle of the respondent was put up in order to claim compensation. He further contended that the respondent had not let in any oral evidence with regard to the manner of accident and not examined any eyewitness to prove that the appellant vehicle was involved in the said accident. In such a view of the matter, the learned counsel for the appellant had contended that the liability to enforce upon the owner of the vehicle/ the appellant herein, has to be set aside and the appellant may be exonerated.

7. Per contra, the learned counsel appearing for the respondent had contended that the accident has taken place at about 05.00 p.m in the market place and the injured victim was admitted to the nearby hospital. The police have recorded the statement of the victim only in the hospital. Even in the FIR, registration number of the respondent vehicle has been mentioned and therefore, there is no question of any suspicious circumstances in the involvement of the vehicle belonging to the respondent herein. He further contended that the Tribunal has awarded the compensation of a sum of Rs.1,77,000/- (Rupees One Lakh Seventy Seven Thousand only) for the



C.M.A.(MD).No.707 of 2019

grievous and simple injuries sustained by the injured victim and therefore, the quantum of compensation may not be interfered with.

8. I have carefully considered the submissions made by the learned counsel on either side and also perused the records of the trial Court.

9. The primary contention of the appellant is that his vehicle was not at all involved in the accident, on 04.08.2016. The learned counsel appearing for the appellant mainly relies upon the fact that the FIR has not been registered on the same day and registered only after two days, viz., on 06.08.2016. A perusal of the FIR indicates that the police officials have visited the hospital and they have recorded a statement of the injured claimant. The Doctor, who had treated the injured claimant, in his evidence, during the cross examination, categorically stated that immediately on being admitted to the hospital, they have informed the police station. Therefore, it is clear that the police officials have taken their own time to record the statement of the injured victim. This cannot be found fault with. Therefore, the involvement of the vehicle for the appellant herein cannot be doubted.



C.M.A.(MD).No.707 of 2019

WEB COPY

10. As far as the quantum is concerned, this Court does not find any infirmity in the compensation under various heads. The Tribunal has awarded a compensation, especially, based upon the medical records and the bills. This Court does not find that the quantum of award under any one of the heads is either unreasonable or exorbitant.

11. Considering the above said facts, there is no merit in the appeal. Accordingly, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs.

14.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Chief Judicial Magistrate cum
Motor Accidents Claims Tribunal,
Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.707 of 2019

R.VIJAYAKUMAR,J.

ebsi

C.M.A.(MD)No.707 of 2019

14.03.2023