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Civil Miscellaneous Appeal Nos.753 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.753 of 2024

Raghu, S/o.Rajamanickam

..Petitioner /Appellant

Vs.

1) M/s.Express Roadways Private Limited,
H.No.335, Gala 1/10. BLDG – 5
Shree Raj Lakshmi Logistics Wadpe,
Bhiwandi Thane (MH) Thane -421 302

2) Oriental Insurance Company Limited,
No.115, Prakasam Salai, George Town,
Chennai – 600 001

..Respondents /Respondents

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 14.09.2023 and made in MACT OP No.554 of 2019 on the file of the Motor Accident Claims Tribunal (In the IV Court of Small Causes. Chennai).

For Appellant

: Mrs.M.Malar

JUDGMENT



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This Civil Miscellaneous appeal has been filed challenging the award passed by the Tribunal in MACT OP No.554 of 2019, on the file of the Motor Accident Claims Tribunal (In the IV Court of Small Causes. Chennai).

2. The case of the Appellant is that he was driving his two wheeler in the road and the offending vehicle viz., the Lorry was parked in the road without any indicator or parking light and as a result, the appellant was not in a position to see the lorry and hence, he dashed against the lorry, which was illegally parked in the road. Due to this accident, the appellant had sustained injuries for which, he had filed a claim petition seeking for compensation.

3. The Tribunal has dismissed the claim petition mainly on the ground that the appellant was under the influence of alcohol and the Tribunal also took into consideration Ex.P2, which is the copy of the accident Register, which clearly shows that the petitioner was under the influence of alcohol while driving and he had stated that he had fallen down from the two wheeler which he was driving, after he had hit the



back of the lorry.

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4. The learned counsel for the appellant submitted that the appellant has suffered 22% disability as assessed by the Medical Board. Admittedly, the lorry was parked in the Road without any indicator or parking light and as a result, the appellant was not in a position to see the lorry. Hence, the two wheeler had hit the back of the lorry. The learned counsel for the Appellant further submitted that the Tribunal did not take into consideration the scope of Section 185 of the Motor Vehicles Act, 1988, which provides that only if the alcohol level exceeds 3 mg per 100ml of blood detected in a test by a breath analyzer, the same becomes an offence punishable under the Act. There was absolutely no attempt made to see if the level of alcohol in the blood exceeded the level that has been provided under Section 185 of the Act.

5. In the considered view of this Court, Section 185 of the MV Act talks about the punishment for person, who drives the vehicle under the influence of alcohol. The provision makes it clear that the alcohol level in the blood must exceeds 30 mg per 100ml of blood. In the instant case, Tribunal has taken into consideration EX.P2, which is the accident



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Register. The appellant who was examined as PW1 had deposed that whatever has been stated in EX.P2 is correct. In the accident Register, it is mentioned that the petitioner was driving the two wheeler under the influence of alcohol where he had hit the Stationery lorry at about 8.30 p.m. This document was relied upon by none other than the appellant and therefore, the appellant cannot be allowed to disown the contents of this document.

6. The fact that the appellant was under the influence of Alcohol is undisputed and how far it has impacted his control in driving the two wheeler is not a matter of presumption. The accident Register shows that the petitioner was under the influence of alcohol and therefore, this Court has to necessarily presume that the petitioner was not in control of his driving skills at the time of accident. Apart from that it is also seen from Ex.P7, which is the Government General Hospital Receipt that the appellant stated that he had fallen down from the vehicle and had sustained injuries and therefore, he has not given any complaint to the police.

9. The Tribunal has properly appreciated the facts and has found that the appellant is not entitled to seek for any compensation in this case.



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This Court does not find any ground to interfere with the award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is is dismissed. No costs.

01.04.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

Motor Accident Claims Tribunal

(In the IV Court of Small Causes. Chennai).

N.ANAND VENKATESH, J.

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