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C.M.A.Nos.1943 of 2012 and 2206 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.1943 of 2012 and C.M.A.No.2206 of 2019 &
C.M.P.No.9304 of 2019**

H.U.Syam Krishnan ... Appellant in C.M.A.No.1943/2012

The New India Insurance Company Ltd.,
SIET Building, 453, Anna Salai,
Teynampet,
Chennai - 600 018. ... Appellant in C.M.A.No.2206/2019

Vs.

1. C.Lakshmanan

2. The New India Insurance Company Ltd.,
SIET Building, 453, Anna Salai,
Teynampet,
Chennai - 600 018. ... Respondents in
C.M.A.No.1943/2012

1. H.U.Syam Krishnan
2. C.Lakshmanan ... Respondents in
C.M.A.No.2206/2019



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COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 172 of the Motor Vehicles Act, against the judgment and decree dated 19.08.2011 made in M.C.O.P.No.1243 of 2008 on the file of IV Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai.

In C.M.A.No.1943 of 2012:

For Appellant	:	Ms.V.Suguna for M/s.C and K Law Firm
For Respondents	:	Mr.M.Krishnamoorthy for R2 R1 - Exparte

In C.M.A.No.2206 of 2019:

For Appellant	:	Mr.M.Krishnamoorthy
For Respondents	:	Ms.V.Suguna for M/s.C and K Law Firm for R1 R2 - Exparte

COMMON JUDGMENT

These civil miscellaneous appeals are filed against the judgment passed in M.C.O.P.No.1243 of 2008. C.M.A.No.1943 of 2012 is filed by the claimant seeking enhancement of the award and C.M.A.No.2206 of 2019 is filed by the Insurance Company challenging the compensation awarded on the ground of quantum of compensation.



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2. In the alleged accident took place on 16.03.2008, in which the claimant suffered multiple injuries. Claiming that after prolonged treatment, the injured was not in a position to do his normal avocation, he filed the claim petition in M.C.O.P.No.1243 of 2008. In the said petition, the second respondent / Insurance Company filed counter affidavit stating that the accident had occurred due to rash and negligent driving of the injured. The Insurance Company also specifically mentioned that the driver of the injured vehicle was not having driving licence and violated the policy conditions.

3. The Tribunal after having considered the averments made in the claim petition and the documents submitted on behalf of the claimant has come to the conclusion that the claimant has suffered 65% of disability due to the accident and awarded a compensation of Rs.3,50,000/- payable by the second respondent / Insurance Company. Challenging the said award, the above two appeals are filed one by the claimant and another by the Insurance Company.

4. Heard the learned counsel appearing for the parties and perused



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the materials placed before this Court.

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5. The learned counsel for the appellant / claimant in C.M.A.No.1943 of 2012 would submit that after the accident the claimant took prolonged treatment, however he was not able to carry on with his day-to-day affairs owing on to his physical activities and the quantum of compensation awarded by the Tribunal is not commensurate with the permanent disability sustained by the claimant.

6. The learned counsel for the appellant / Insurance in C.M.A.2206 of 2019 would submit that the accident occurred due to rash and negligent riding of the rider of the motorcycle i.e., claimant and the Tribunal failed to take into consideration the factum of contributory negligence. That apart, before the Tribunal the owner and the insurer of the motorcycle was not at all joined as parties and that the compensation claimed by the claimant was excessive as also the compensation awarded by the Tribunal.

7. Admittedly the accident occurred on 16.03.2008 and that the claimant suffered injuries due to the accident. Ex-p6 is the accident register



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issued by the Hospital which shows that the claimant has suffered injuries due to the accident. The claimant was aged 22 years and he was studying Engineering Course in a College. Therefore, the Tribunal after taking into consideration that there was no loss of income, and keeping in mind as to the nature of the injuries sustained, age of the claimant and the period of treatment, the Tribunal has awarded just compensation of Rs.3,50,000/-. This Court is not inclined to interfere with the award passed by the Tribunal accordingly both these Civil Miscellaneous Appeals are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

06.12.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

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SIET Building, 453, Anna Salai,
Teynampet,
Chennai - 600 018.

2. The learned Judge,
Motor Accident Claims Tribunal,
IV Court of Small Causes.
3. The Section Officer,
V.R. Section, High Court,
Chennai.



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M.DHANDAPANI, J.

vji

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