



C.M.A. No.1735 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.1735 of 2022

Lakshmanan

... Petitioner/ Appellant

Vs.

1. Periyasamy

2. United India Insurance Co. Ltd.,
Branch Office,
Salem Main Road, Rasipuram,
Namakkal District.

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.07.2017, made in M.C.O.P. No.2347 of 2014, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Dharmapuri.

For Appellant : Mr. D. Rameshkumar

For R1 : No Appearance

For R2 : Mr. J. Vijayaraghavan



C.M.A. No.1735 of 2022

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JUDGMENT

This Civil Miscellaneous appeal has been filed by the claimant seeking enhancement of compensation awarded by the Tribunal in M.C.O.P. No.2347 of 2014 dated 26.07.2017, on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Dharmapuri.

2. For the sake of convenience, the parties are referred herein according to their litigative status and rank before the Tribunal. The brief facts leading to filing of this appeal is as follows:

3. The case of the claimant is that, the claimant has filed a claim petition seeking compensation for a sum of Rs.5,00,000/-, by invoking Section 166 of the Motor Vehicles Act, 1988, for the injuries sustained by him, in the road accident on 10.09.2002 at about 09:00 AM, while he was walking on the Salem - Dharmapuri NH road, near Kurunji Nagar Checkpost, within the jurisdiction of Thoppur Police station. Though, the accident has taken place in the year 2002, the claim petition was filed only in the year 2010 and the same is disposed of in the year 2017.



C.M.A. No.1735 of 2022

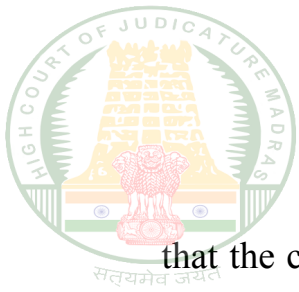
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4. Before the Tribunal, the first respondent, who is the owner of the offending vehicle remained ex-parte. The second respondent - insurance company contested the claim disputing the negligence as well as quantum of compensation, claimed by the claimant. On the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P.1 to P.9 were marked, on the side of the second respondent, no witnesses were examined and no exhibits were marked.

5. The Tribunal after considering the evidence placed on record, accepted the case of the claimant and awarded a sum of Rs.1,60,000/- as compensation along with interest @ 7.5% per annum from the date of petition till the date of realization and directed the second respondent - insurance company to pay the compensation.

6. Aggrieved over the quantum of compensation, the claimant has come forward with this appeal. The second respondent - insurance company has not filed any appeal, challenging the award of the Tribunal.

7. The learned counsel appearing for the appellant/ claimant submits



that the claimant was 12 years old, at the time of accident and the quantum of compensation awarded by the Tribunal is on the lower side, more particularly, the compensation awarded under the head disability is on the lower side, the Tribunal has awarded only Rs.3,000/- per percentage of disability, therefore, prays to enhance the compensation awarded by the Tribunal

8. Per contra, the learned counsel appearing for the insurance company submits that the compensation quantified is excessive, however, they have not filed any appeal against the order of the Tribunal, hence prays to dismiss the appeal.

9. I have considered the submissions made on both sides and perused the entire materials available on record.

10. The Tribunal by relying on the evidence placed on record, more particularly, the disability assessed by P.W.2 - Doctor, who had stated that the claimant has sustained both bone fracture and assessed 35% disability, fixed Rs.3,000/- per percentage of disability and awarded compensation for a sum of Rs.1,05,000/- under the head disability. Since, the accident has taken place in



C.M.A. No.1735 of 2022

the year 2002, awarding Rs.3,000/- per percentage of disability is in accordance with law and as per the norms followed by this Court, therefore, the same is hereby confirmed.

11. The Tribunal has awarded Rs.10,000/- each under the head pain and suffering, transportation expenses, attendant charge and extra Nutrition and Rs.15,000/- under the head loss of amenities. Taking note of the nature of injury, age of the claimant at the time of accident and date of accident, this Court finds that the compensation awarded by the Tribunal is just and proper and the same needs no modification or enhancement. Therefore, this Court finds no merit in this appeal.

12. In the result, this Civil Miscellaneous Appeal is dismissed, the order of the Tribunal is hereby confirmed. Consequently, connected miscellaneous petition, if any stands closed. There shall be no order as to cost.

06.12.2024

stn

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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C.M.A. No.1735 of 2022

K. RAJASEKAR, J.

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To:

1. The Special Sub Judge,
Motor Accident Claims Tribunal,
Dharmapuri.
2. The Section Officer,
V.R.Section,
High Court, Chennai.

C.M.A. No.1735 of 2022

06.12.2024