



C.M.A.No.1543 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1543 of 2021
and C.M.P.No.8079 of 2021

Shri Ram General Insurance Company Ltd.,
No:5, F, Sachin Plaza, Reddiyur Block No:1,
Shri Ram Nagar, Alagapuram Post,
Salem – 16.

...Appellant

Vs.

1.K.Gunasekaran
2.Prasanth

*(2nd respondent/1st respondent remained exparte in
lower Court, hence notice may be dispensed with)*

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.1735 of 2017 dated 04.02.2020 on the file of the Motor Accident Claims Tribunal (Special Sub-Judge No:2), Salem.



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For Appellant : Ms.V.Pushpa

For Respondents : Mr.S.P.Yuvaraj

J U D G M E N T

This appeal is filed by the appellant Insurance Company challenging the judgment and decree passed by the Motor Accident Claims Tribunal (Special Sub-Judge No.2), Salem in M.C.O.P.No.1735 of 2017 dated 04.02.2020.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioner is the claimant, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:

On 25.03.2017 at about 8.00 p.m., the petitioner drove his TVS Super XL two wheeler from Muthunaickenpatti to Salem Main Road near



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Pagalpatty Eerikarai at that time, one TATA ACE vehicle bearing Registration No.TN 48 S 9651, came in a rash and negligent manner had dashed back side on the petitioner vehicle and the petitioner sustained head injury. Immediately, the petitioner was taken to Omalur Government Hospital and after the first aid treatment, he was shifted to KMCH, Coimbatore. A case was registered in Crime No.215/2017 under Sections 279 and 337 of IPC by the Sub Inspector of Police, Omalur. The petitioner filed a claim petition before the Tribunal in M.C.O.P.1735 of 2017, the Tribunal has awarded a sum of Rs.2,55,814/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the petitioner has not possessed valid driving license and the vehicle driven by the petitioner is also not registered at the time of the accident. He further submitted that the compensation awarded by the Tribunal is very excessive. Hence, she prayed for appropriate orders.

6.Learned counsel appearing for the first respondent submitted that the accident occurred only due to the rash and negligent driving by the



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driver of TATA ACE vehicle. After considering the oral and documentary evidence, the Tribunal has awarded the compensation which is just and reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.

9.Before the Tribunal, the petitioner was examined as PW1, Mr.Ravi, an eyewitness to the accident was examined as PW2 and on the side of the petitioner, 13 documents were marked as Exs.P1 to P13. On the side of the second respondent, Mr.Sivalingam, Special Sub Inspector, Mallur Police Station was examined as RW1, Mr.Karuppanan, the driver



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of the first respondent was examined as RW2 and Ms.Visithra, Legal Manager, Shri Ram General Insurance Company Ltd. was examined as RW3 and 2 documents were marked as Exs.R1 and R2. FIR registered by Omalur Police in Crime No.215/17 and other related documents were marked as Ex.W1. Wound Certificate issued by the Medical Board dated 10.01.2020 was marked as Ex.C1.

10.On perusal of the records, it is seen that the deceased was aged 32 years and was working as weaver as well as owner of handloom and earning Rs.15,000/- per month at the time of the accident.

11.It is further seen from the records that the Medical Board has assessed only 5% permanent disability and the Tribunal has fixed Rs.3,000/- per percentage of disability for the accident happened in the year 2017 which is proper and reasonable and the amount awarded under other heads are also very meagre.



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12. Therefore, this Court does not find any grounds to interfere with the award passed by the Tribunal. The compensation awarded by the Tribunal is very reasonable and it does not warrant interference of this Court.

13. The judgment and decree dated 04.02.2020 passed by the Motor Accidents Claims Tribunal/Special Sub Judge No.2 Salem in M.C.O.P.No.1735 of 2017, is confirmed.

14. The appellant Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, if not deposited earlier, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered.



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15.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

- 1.The Motor Accident Claims Tribunal,
(Special Sub-Judge No:2), Salem.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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