



C.M.A.No.416 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.416 of 2023

and

C.M.P.No.3579 of 2023

United India Insurance Co. Ltd.,
No.2, Dr.Sankaran Road,
Namakkal.

.. Appellant

Vs.

1.Senthilkumar

2.Dhandapani

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 30.11.2018 made in M.C.O.P.No.178 of 2014 on the file of Motor Accident Claims Tribunal (Subordinate Judge), Rasipuram.

For Appellant : Mr.C.Paranthaman

For respondents : No appearance



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J U D G M E N T

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The Insurance Company has filed the present appeal against the award passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Rasipuram, in M.C.O.P.No.178 of 2014 dated 30.11.2018.

2.The case of the claimant is that on 15.05.2014, he was riding a two wheeler at Salem – Namakkal bypass road and when the vehicle approached Vetri Nagar, the offending vehicle which was a Maruti Alto car which was driven in a rash and negligent manner dashed on the two wheeler driven by the claimant and as a result, the claimant sustained fracture of the toe and also fracture of the shoulder and other injuries sustained all over the body. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the offending vehicle. The Tribunal



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having reached such a conclusion, proceeded to fix the total compensation at Rs.96,640/- under various heads as follows:

1.Disability	-	Rs.30,000/-
2.Pain and sufferings	-	Rs.10,000/-
3.Extra nourishment	-	Rs.10,000/-
4.Transportation Expenses	-	Rs.5,000/-
5.Loss of amenities	-	Rs.10,000/-
6.Loss of income		
(6,000 X 3)	-	Rs.18,000/-
7.Medical expenses	-	Rs.13,640/-

Total		Rs.96,640/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The Insurance Company mainly questioning the negligence had filed the present appeal before this Court.

6.Heard the learned counsel for the appellant. The respondents have been served with notice and their names have also been printed in



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the cause list and there is no representation either in person or through counsel.

7.This Court has carefully considered the submissions made on the side of the appellant and the materials available on record.

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The main ground that was urged by the learned counsel for the appellant is that the complaint was given against the 2nd respondent herein and an FIR was registered and whereas, it was subsequently closed as mistake of fact in RCS.No.47 of 2014. After the completion of the investigation, it was found that the claimant had crossed the center median where there was no provision for crossing and had entered into the Salem – Namakkal road without seeing the vehicle that was coming from the northern side. Therefore, it was submitted that the entire negligence was only on the part of the claimant.



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10.The Tribunal had considered this issue. The Tribunal on appreciation of the evidence of P.W.1 and also the stand taken by the Insurance Company, came to the conclusion that there is absolutely no material to show that the criminal case was closed as mistake of fact except the *ipse dixit* of R.W.1. Therefore, the Tribunal on appreciating the evidence of P.W.1 and also the FIR that was marked as Ex.P1, came to a conclusion that the accident had taken place only due to the negligence on the part of the offending vehicle. This finding of the Tribunal does not suffer from any illegality warranting interference of this Court.

11.The compensation that has been fixed by the Tribunal is very reasonable and it does not require the interference of this Court.

12.Accordingly, the quantum of compensation fixed by the Tribunal at Rs.96,640/- stands affirmed. The appellant – Insurance Company is directed to deposit the compensation amount along with interest at the rate of 7.5% per annum, less the amount already deposited within a period of four (4) weeks from the date of receipt of a copy of this



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judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13.In the result, this Civil Miscellaneous Appeal stands dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

26.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Rasipuram.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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