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C.M.A.No.3046 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3046 of 2024

Srinivasan

...Appellant

Vs.

1. Nandhakumar

2. S.C.Ponnusamy

3. The National Insurance Company Limited,
1st Floor, Karthikeya Complex, 403, B-10,
Mettur Main Road, Bhavani, Erode District.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, challenging the order in MCOP.No.33 of 2016 dated 18.04.2023 on the file of the Motor Accidents Claims Tribunal/Subordinate Judge Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.L.Mouli, for R1
: Mr.J.Michael Visuvasam, for R3



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JUDGMENT

This Civil Miscellaneous appeal has been filed challenging the award and decree passed in MCOP.No.33 of 2016 dated 18.04.2023 on the file of the Motor Accidents Claims Tribunal/Subordinate Judge Court, Sankari.

2. Mr.L.Mouli, learned counsel takes notice on behalf of the 1st respondent, Mr.J.Michael Visuvasam, learned counsel takes notice on behalf of the 3rd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. The case of the claimant is that, on 20.10.2015 at about 11.30 am, when the appellant was traveling on the left side of Devur - Edappadi bypass main road in a two-wheeler bearing Regn.No.TN-32 R-6664, at that time, a Maruti Omni Van bearing Regn.No.TN-39-A-1135 owned by the 1st respondent insured with the 3rd respondent driven by its driver came in a rash and negligent manner and collided with the vehicle driven by the



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appellant, due to which, the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition claiming a compensation of Rs.15,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.12 and on the side of respondents, one witness viz., R.W.1 was examined and the copy of the Insurance Policy of the offending vehicle was marked as exhibit R.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, however, awarded a meagre compensation of Rs.2,22,570/-. Aggrieved with the said order, the appellant has come up with this appeal.

4. Learned counsel for the appellant submitted that, the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, for which, the FIR came to registered as against the 1st respondent's driver and due to the above said accident, the appellant sustained grievous head injury and lacerated wounds all over his body. Further, at the time of accident, the appellant was aged



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about 32 years and was running his own Mobiles sales and services shop and was earning a sum of Rs.30,000/- and due to the injuries sustained by him in the above said accident, the appellant is unable to continue his avocation which he was doing earlier and the appellant is struggling financially and is unable to meet out his day to day needs. However, the tribunal had miserably failed to consider the same and had awarded a meagre compensation of Rs.2,22,570/-. Learned counsel further submitted that, for further treatment, the appellant was admitted to Sudha Hospital, Erode as an inpatient for about two weeks, however, the tribunal failed to award any compensation under the head Attender charges and the compensation awarded under the other heads are also on the lower side. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing on behalf of the 3rd respondent submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



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6. On the above said contentions, heard learned counsel appearing on behalf of the 1st respondent and perused the material documents placed on record.

7. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect. Though it is claimed by the learned counsel for the appellant that the appellant took treatment as inpatient for a period of two weeks, in order to prove the same, no document has been produced by the appellant. Hence, in the absence of any proof, the tribunal has rightly refused to award any compensation under the head 'Attender charges' and the same cannot be said to be erroneous.

8. Insofar as the compensation awarded under other heads are concerned, the Tribunal has taken into consideration the nature of injuries suffered by him and after proper appreciation of the material documents placed before it, the tribunal has awarded the compensation, which cannot be said to be erroneous or arbitrary and, therefore, this Court confirms the award passed by the tribunal in favour of the appellant.



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9. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.33 of 2016 dated 18.04.2023 and the 3rd respondent-insurance company is directed to deposit the compensation of **Rs.2,22,570/-** awarded by the tribunal to the credit of MCOP.No.33 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the appellant directly to his bank account through RTGS within a period of two (2) weeks thereafter. It is underscored that the appellant is not entitled to any interest for the default period, if any. There shall be no order as to costs in this appeal.

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skt

NCC : Yes/No
Index : Yes/No
Speaking order : Yes/No

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M.DHANDAPANI, J.

skt

To:

The Motor Accidents Claims Tribunal/Subordinate Judge Court,
Sankari.

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