



C.M.A.No.1855 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1855 of 2020

M.Sunderarajan

...Appellant

Vs.

1.A.Sadiq Basha

2.M/s.Oriental Insurance Company Ltd.,

No.22, Siva Complex,

Sarada College Main Road,

Fairlands,

Salem – 636 016.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.01.2019 passed in M.C.O.P.No.1499 of 2014 on the file of the Motor Accidents Claims Tribunal /Special Sub Judge No.2, Salem.



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For Appellant : Mr.C.Thangaraju
For Respondents : R1 - NRN
Mr.K.Vinod for R2

J U D G M E N T

This appeal is filed by the appellant challenging the judgment and decree passed by the Motor Accidents Claims Tribunal /Special Sub Judge No.2, Salem in M.C.O.P.No.1499 of 2014 dated 28.01.2019.

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 22.07.2014, the petitioner was going to his home from Namakkal in a two wheeler on Namakkal to Salem Road near



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Attayampatti pirivu road, at that time, a TVS Suzuki bearing Registration No.TN 39 AB 9633 which was came in the wrong side in a rash and negligent manner and dashed against the two wheeler in which the petitioner was a rider. Due to the sudden impact, the petitioner sustained multiple and grievous injuries on the left hand, left eye and head. A case was registered against the rider of TVS Suzuki in Crime No.182/2014 under Sections 279, 338 of IPC by Venandhur Police. The petitioner filed a claim petition before the Tribunal in M.C.O.P.No.1499 of 2014, the Tribunal awarded a sum of Rs.4,59,582/- after deduction of 15% negligence. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that though the accident occurred only due to the rash and negligent driving of TVS Suzuki bearing Registration No.TN 39 AB 9633, the Tribunal awarded 15% negligence on the petitioner which is not sustainable. Hence, he prayed for appropriate orders.



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6.Learned counsel appearing for the second respondent submitted that since the appellant was not wearing the helmet at the time of accident, the Tribunal has rightly awarded 15% negligence on the appellant 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 second 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 15% negligence awarded on the appellant.

9.Before the Tribunal, the petitioner was examined as PW1 and on the side of the petitioner, 8 documents were marked as Exs.P1 to P8. On the side of the second respondent, no witness was examined and 4 documents were marked as Exs.R1 to R4.



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10. On perusal of the records, it is seen that the Tribunal has rightly held and awarded 15% negligence on the appellant as the appellant not wearing the helmet at the time of accident.

11. The Tribunal after examining evidence and documents as well as considering the submission on either side, has awarded the compensation which is just and reasonable. Therefore, this Court does not find any grounds to interfere with the award passed by the Tribunal.

12. The judgment and decree dated 28.01.2019 passed by the Motor Accidents Claims Tribunal/Special Sub Judge No.2, Salem in M.C.O.P.No.1499 of 2014, is confirmed.

13. The second 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



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issued by the Tribunal with regard to the mode of payment of compensation remain unaltered.

14.In the result, the Civil Miscellaneous Appeal is dismissed.

No costs.

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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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