



C.M.A.No.2877 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 29.01.2024	Pronounced on 22.02.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2877 of 2019

S.Mohan
S/o.Sekar
25/18, 3rd Street
B.B.Road, Triplicane
Chennai 600 005

... Appellant

Vs.

1.B.Suresh
S/o.Subramaniam
No.16/63, Veera Pandiya Kattaboman Street
Perungudi, Chennai 600 096

2.Reliance General Insurance Co. Ltd.,
Reliance House, 4th floor
No.6, Haddows Road
Nungambakkam, Chennai 600034

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 14.02.2019 in MCOP.No.398 of 2018 on the file of the IV Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.



C.M.A.No.2877 of 2019

WEB COPY

For Appellant : Ms.Ramya V.Rao

For Respondents : Ms.G.Sukumari (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 14.02.2019 in MCOP.No.398 of 2018 on the file of the learned IV Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.398 of 2018 on the file of the learned IV Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 22.11.2017. The Tribunal has awarded a sum of Rs.50,000/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.



C.M.A.No.2877 of 2019

WEB COPY

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioner, PW1 & PW2 were examined, Ex.P.1 to Ex.P.16 were marked and Respondents 1 & 2 were remained exparte before the Tribunal.

6.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company.

7.From the records it is seen that based upon the existing policy on the date of the accident, the Tribunal has held that both owner and insurer of the vehicle are jointly and severally liable to pay compensation to the claim



C.M.A.No.2877 of 2019

WEB COPY

Petitioner. PW2/Dr.K.J.Mathiazhagan assessed the disability at 25% based upon Ex.P.15 & Ex.P.16. Admittedly, PW2/Doctor was not the Doctor, who treated the Petitioner at the time of the accident. The claim Petitioner has not produced any evidence to show that he has taken any further treatment, except on 22.11.2017, which is the date of accident and there is no document to show that the injuries sustained by the claim Petitioner/Appellant is grievous in nature, assumes significance and he has not appeared before the Medical Board and hence the Tribunal has awarded a lumpsum amount of Rs.50,000/- to the claim Petitioner. The same is under challenge in this Appeal.

8.After perusing the discussion made by the Tribunal in paragraph Nos.8 & 9 of the Order made in MCOP.No.398 of 2018 dated 14.02.2019, I find that the claim Petitioner has not adduced any positive evidence to show that except on the date of the accident, he was treated as out patient and no document has been produced and therefore, the compensation awarded by the Tribunal cannot be found fault. There is no positive evidence and documents to show that the claim Petitioner has suffered pain and sufferings and he required nutrition & person like attender and hence, the amount of compensation awarded by the



C.M.A.No.2877 of 2019

WEB COPY

Tribunal cannot be termed as meagre and it appears that it is just and fair.

9.In fine, this Civil Miscellaneous Appeal is dismissed, confirming the order dated 14.02.2019 in MCOP.No.398 of 2018 on the file of the learned IV Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai. No costs.

22.02.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The IV Judge,
Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.



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C.M.A.No.2877 of 2019

RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

C.M.A.No.2877 of 2019

Dated: 22.02.2024