



C.M.A.No.480 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.480 of 2021
And
C.M.P.No.3062 of 2021**

The Branch Manager,
National Insurance Company Limited
No.272, J.N.Street,
Puducherry – 1.

... Appellant

Vs.

1.Janarthanan
2.Abdul Kathar

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 08.04.2019 made in M.C.O.P.No.649 of 2017, on the file of the Motor Accidents Claims Tribunal (Additional Sub Judge), Puducherry.

For Appellant : Mr.D.Bhaskaran
For Respondents : Mr.K.Sasindran for R1
R2 – No Appearance

J U D G M E N T

The second respondent before the Motor Accidents Claims



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Tribunal is the appellant herein. This appeal has been filed against the award and decree dated 08.04.2019 made in M.C.O.P.No.649 of 2017, on the file of the Motor Accidents Claims Tribunal (Additional Sub Judge), Puducherry.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs alleging that on 12.05.2017 at about 01.30 p.m., the first respondent was going in a motorcycle bearing Registration No.PY-01-A-2575 at Villianur Bye Pass Road near ADR Blue Metals Shop, Villianur, Puducherry from North to South direction. At that time, the driver of the Auto bearing Registration No.PY-03-A-2788 drove the vehicle in a rash and negligent manner in the same direction and dashed against the motorcycle, due to which, the first respondent sustained injuries. After adjudication, the Tribunal awarded a sum of Rs.10,95,000/- as compensation to the claimant along with interest at 7.5% p.a. from the date of petition, viz.16.06.2017 till the date of payment with costs and directed the appellant to deposit the compensation amount.

3.The learned counsel appearing for the appellant further



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submitted that aggrieved by the quantum of compensation awarded by the Tribunal, this appeal has been filed. The learned counsel further submitted that in Ex.C1 – Medical Board Certificate, the Medical Board has assessed the disability of the claimant as 50%, however, the Tribunal arrived at a conclusion that claimant suffered 50% functional disability and awarded compensation by adopting multiplier method, contrary to the decision of the Hon'ble Apex Court reported in (2011) 1 SCC 343 [*Raj Kumar Vs. Ajay Kumar and Ors.*], which is not sustainable one and further submitted that the amount awarded under the other heads are also on the higher side.

4.The learned counsel appearing for the first respondent/ claimant submitted that the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the



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quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

7.The appellant claim that in Ex.C1 – Medical Board Certificate, the Medical Board has assessed the disability of the claimant as 50%. This Court perused Ex.C1 and it reveals that the Medical Board had opined 'post head injury sequel and left temporal but with pneuimo cephalous C/o.abnormal sequel not conscious head choral alcoholment, talk relevant and coherent, mood euthiymic and no specific thought/ perceptual disturbance'. This Court vide order dated 04.06.2024 made in C.M.A.No.480 of 2021 and C.M.P.No.3062 of 2021 directed the first respondent to appear before the Medical Board at JIPMER Hospital, Pondicherry, pursuant to which, the JIPMER Hospital, Pondicherry, has sent the medical report of the first respondent dated 03.07.2024, wherein, they have observed that it is possible that the patient's performance could have been influenced by situational and psychosocial factors and has given final impression as 'post-traumatic sequelae cognitive memory impairment'.

8.When a person suffer from memory impairment, it will be difficult for him to drive the vehicle. Since the occupation of the first



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respondent is Driver, he may not be able to continue his avocation as as before and hence the Tribunal arrived at a conclusion that the claimant suffered 50% functional disability and awarded compensation by adopting multiplier method, which warrants no interference. The amount awarded under the other heads are also just and reasonable.

9.The civil miscellaneous appeal is dismissed. The award and decree dated 08.04.2019 made in M.C.O.P.No.649 of 2017, on the file of the Motor Accidents Claims Tribunal (Additional Sub Judge), Puducherry, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

27.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(Additional Sub Judge), Puducherry.



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M.DHANDAPANI,J.
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