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C.M.A.No.2748 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2748 of 2023

M.Anthony

... Appellant

Vs.

1.S.Rajesh,
S/o.Subramani

2.Reliance General Insurance Company Limited,
Rals Tower, 2nd Floor,
Plot No.2054, 2nd Avenue,
Next to Senthil Nursing Home,
Anna Nagar,
Chennai-600 040.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.11.2022 passed in M.C.O.P.No.622 of 2015 on the file of the Motor Accident Claims Tribunal/V Court of Small Causes, Chennai.



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For Appellant : Ms.Ramya V.Rao
For Respondents : R1- Dispensed with
Mr.P.Suresh Srinivasan
for R2

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/V Court of Small Causes, Chennai, in M.C.O.P.No.622 of 2015, dated 03.11.2022, has filed this appeal.

2. On 05.09.2013 at about 21.00 hrs, when the claimant, who was a pedestrian, was crossing towards west to east direction at OMR, Opp, C.D.S.Readymix Company, Padur, a Motorcycle bearing Registration No.TN-19-H-8402 which came from Padur to Kelambakkam, was driven by its driver in a rash and negligent manner and hit against the claimant. As a result, the claimant sustained grievous injuries all over the body. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.



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3. Before the Tribunal, on the side of the claimant, the claimant himself was examined as P.W.1 and one Sathish, who was the Administrative staff of Chettinad Hospital, was examined as P.W.2 and Exs.P1 to P18 were marked. On the side of the respondents, no witnesses was examined and no document was marked. The Medical Board Certificate of the petitioner was marked as Ex.C1. The Tribunal, on considering the facts and circumstances of the case and on appreciation of 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 rider of the motorcycle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,50,500/- under various heads. The above compensation was directed to be paid by the respondent Nos.1 and 2 jointly along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. Pending the appeal, the parties have arrived at a settlement and a Joint Memo For Recording Settlement dated 21.12.2024 signed by both parties and their respective counsel, has been filed. The terms of settlement are extracted hereunder:

- " 1. The above appeal has been filed by the appellant/claimant seeking enhancement of compensation. The appellant had filed the above MCOP claiming compensation for the injuries sustained by him in an accident which took place on 05.09.2013 involving 1st respondent's vehicle insured with the 2nd respondent.
2. The tribunal passed an award dated 03.11.2022 for a sum of Rs.2,50,500/- with interest at 7.5% and cost. The Insurance Company has deposited the amount awarded by the Tribunal with interest and cost.
3. In the appeal, after Negotiation between both parties, the 2nd respondent Insurance Company is ready to settle the above appeal by accepting to enhance the compensation by Rs.75,000/- inclusive of interest as full quit and above the Tribunal award amount.
4. The appellant/Petitioner has already withdrawn the amount deposited by the Insurance Company. Now he is ready and willing to accept Rs.75,000/- in full quit over and above the Tribunal award amount.
5. It is prayed that this Hon'ble High Court may be pleased to record this Memo of Compromise and pass an award for a sum of Rs.75,000/- in favour of the Appellant/petitioner, Anthony, payable by the Respondent to the credit of the above M.C.O.P.No.622 of 2015 (on the file of the Motor



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Accidents Claims Tribunal/(V Court of Small Causes, Chennai) within a period of four weeks, on such deposit, the appellant/claimant is permitted to withdraw the said amount without filing any formal petition, and thus render justice.

The Civil Miscellaneous Appeal is disposed of in terms of Joint Memo for Recording Settlement dated 21.12.2024 and the same shall form part of the judgment. No costs.

21.12.2024

(2/5)

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

Note: Issue order copy on **06.01.2025**

To

1.The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

2.The Section Officer,
V.R. Section,



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High Court, Chennai.

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M.DHANDAPANI, J.

ssb

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**21.12.2024
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