



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.Nos.3026 and 3028 of 2024

Jayanthan ... Appellant in CMA.No.3026 of 2024
Barathkumar ... Appellant in CMA. No.3028 of 2024
-VS-

1. Ramachandran

2. The United India Insurance Company Ltd.,
PPS Complex, First Floor, Mettur Main Road,
Omalur Post, Salem – 636 455.

3. S.T.Courier Services Ltd., 69/109,
Maruthi Street, Kumar X-Ray's Back side,
Post Office Road, Subramanya Nagar Junction,
Salem.

... Respondents in both the appeals

Common Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.10.2023 in M.C.O.P.Nos.36 and 38 of 2020 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.S.P.Yuvaraj for both the appeals
For Respondents : Mr.K.V.Varadha Kamaraj R2
For both the appeals

COMMON JUDGMENT

These appeals have been filed by the insurance company against the Judgment and Decree dated 19.10.2023 in M.C.O.P.Nos.36 and 38 of 2020 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate,



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2. It is the case of the appellants that on 26.08.2019 at about 2.00 p.m. the appellant in CMA.No.3026 of 2024 was riding a two wheeler bearing Reg . No.TN 30 AS 9551 and the appellant in CMA.No.3028 of 2024 was travelling in the same vehicle as pillion rider. When they were proceeding in the junction to AVR Rountana Road, at that time, an Eicher Goods courier vehicle bearing Reg. No. TN 54 L 9687 belonging to the first respondent driven by its driver in a rash and negligent manner and dashed against the two wheeler. Due to that the claimants sustained injuries. Thereafter, the claimants had filed a separate claim petitions before Tribunal claiming respective compensation. After adjudication, the Tribunal has awarded a sum of Rs.5,11,500/- and Rs.1,89,910/- to the claimants respectively for the injuries sustained.

3. For enhancement of compensation, the present appeals have been filed by the claimants.

4. The learned counsel for the appellants submitted that admittedly both the appellants sustained injuries due to the accident which occurred on 26.08.2019 at about 02.00 p.m. and the appellants are the students, the Tribunal



has failed to consider that they could not concentrate on their studies continuously due to the head injury. The claimants were aged about 19 years at the time of the accident and suffered injuries, as assessed by the Medical Board resulting in a permanent disability. However, the Tribunal has awarded only a sum of Rs.50,000/- each to the claimants, which is very meager. Hence, this Court may interfere with the award passed by the Tribunal.

5. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that there is no insurance policy at the time of the accident. Hence, the second respondent is not liable to pay any compensation to the appellants. The first respondent is owner of the vehicle and therefore, the Tribunal has rightly fastened the liability on the first respondent, which is perfectly in order. Hence, this Court may dismiss the appeals.

6. Heard the learned counsel for either side and perused the materials available on record.

7. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. The appellants have filed the appeals only for enhancement of compensation.



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M.DHANDAPANI, J.

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8. The learned counsel for appellant submitted that the doctor, who was treated the claimants, assessed the disability at 2% and 10% respectively and inspite of the same, the Tribunal has awarded a sum of Rs.5,000/- per percent and awarded a lump sum compensation in respect of disability, which is just and proper. The Tribunal has properly considered the injury sustained and rightly awarded compensation in respect of other heads also, which needs no interference by this Court.

9. In the result, both the appeals are dismissed. No costs. The award passed by the Tribunal is confirmed. No costs.

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Index: Yes/No

NCS : Yes/No

To

The Judge,

Motor Accident Claims Tribunal and Chief Judicial Magistrate, Dharmapuri.

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