



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.830 of 2024

S.Manoj

..Appellant

.VS.

1.T.M.Muthukumar

2.R.Kanagaraj

3.United India Insurance Co., Ltd,
No.280, Ooty Main Road,
Mettupalayam.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.2089 of 2014 dated 11.07.2017, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore.

For Appellant : Mr.R.Navaneetha Krishnan

For Respondents : Ms.Ratna Thara for R3

JUDGMENT

The injured/claimant has filed this appeal against the Award passed by the Motor Accident Claims Tribunal, Coimbatore in MCOP No.2089 of 2014, dated 11.07.2017, mainly on the ground that the Tribunal had granted compensation



under no fault liability without going into the merits of the case and the appellant is seeking for a remand of the case to the Tribunal to decide the case on merits and in accordance with law.

2.Heard Mr.R.Navaneetha Krishnan, learned counsel appearing on behalf of the appellants and Ms.Ratna Thara, learned counsel appearing on behalf of the 3rd respondent.

3.The case of the appellant is that he was travelling as a pillion rider in the two wheeler driven by his friend on 11.07.2014 and at about 3.30 p.m., when the vehicle was going in the Kothagiri to Mettupalayam Road, the vehicle that was driven by the 2nd respondent in a rash and negligent manner hit the two wheeler and the petitioner sustained grievous injuries and was permanently disabled. It is under these circumstances, the claimant had filed a claim petition before the Tribunal seeking for compensation.

4.The Tribunal was not able to arrive at any conclusion with regard to the negligence aspect, since no evidence was adduced either oral or documentary. That apart, there was no evidence even insofar as the compensation that was claimed by the appellant. In short, the counsel who appeared for the appellant did not properly



contest the case. As a result, the Tribunal taking into consideration the injuries that were sustained by the appellant, proceeded to fix the compensation under Section 140(2) of the Motor Vehicles Act and granted compensation of a sum of Rs.25,000/- with interest at the rate of 7.5% per annum.

5.The appellant filed the present appeal with a delay of 2114 days. This delay was condoned by this Court in CMP No.19680 of 2023 by order dated 16.02.2024 and thereafter, the appeal was numbered and posted for admission.

6.Taking into consideration the facts and circumstances of the case and also of the fact that the appellant had sustained grievous injuries resulting in permanent disability and appellant would be entitled for compensation under various heads and that the appellant is in possession of necessary documents to prove his case, this Court is inclined to remand the matter back to the file of the Tribunal. The Tribunal shall consider the claim made by the appellant on its own merits and in accordance with law and based on the oral and documentary evidence that is adduced by the parties.

7.It is also made clear that if the Tribunal proceeds to deal with case on merits and fixes any compensation payable to the appellant, the appellant will not



be entitled for any interest for the period from 11.07.2017 to 31.08.2023. The same shall be kept in mind by the Tribunal while fixing the interest payable, if any by the Insurance Company.

8.In the light of the above discussion, the Award passed by the Motor Accident Claims Tribunal, Coimbatore in MCOP No.2089 of 2014, dated 11.07.2017, is hereby set aside. The matter is remanded back to the file of the Tribunal. The Tribunal shall deal with the claim petition on its own merits and in accordance with law and an Award shall be passed, within a period of three months from the date of receipt of copy of this order.

9.In the result, this civil miscellaneous appeal is allowed with the above direction. No Costs.

12.04.2024

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



To

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The Special Subordinate Judge, Motor Accident Claims Tribunal, Coimbatore.



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N. ANAND VENKATESH., J

SSR

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