



C.M.A.No.214 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.214 of 2023

and

C.M.P.No.1679 of 2023

The Divisional Manager,
United India Insurance Company Limited,
Divisional Office at No.10, 2nd Floor,
Ashwathnagar, Poojari Layout,
80 Feet Road, Near IDBI Bank,
Sanjaya Nagar, Bangalore,
Karnataka State.

.. Appellant

Vs.

1.K.V.Srinivasa Guptha

2.M.Deiva

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award dated 20.04.2022 made in M.C.O.P.No.13 of 2019 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Hosur and to dismiss the above claim as against the appellant.

For Appellant : Mr.D.Venkatachalam

For R1 : Mr.C.Prabakaran



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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 driver of the offending vehicle.

4.The Tribunal having rendered the above finding, proceeded to fix the total compensation at Rs.3,14,169/- under various heads as follows:

Sl.No.	Heads	Calculation
1.	Compensation for partial permanent disability of 45% (45 X 4000)	Rs.1,80,000/-
2.	Medical expenditure	Rs.98,169/-
3.	Future Medical expenditure	Rs.1,000/-
4.	Compensation towards pain and sufferings	Rs.2,000/-
5.	Amount towards extra Nourishment	Rs.1,000/-
6.	Amount towards attender charges	Rs.1,000/-
7.	Transportation expenses	Rs.1,000/-
8.	Partial Loss of Income	Rs.30,000/-
	Total Compensation (Sl.Nos.1 to 8)	Rs.3,14,169/-

5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



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6.The Insurance Company questioning the negligence aspect has filed the present appeal against the order passed by the Tribunal.

7.Heard the learned counsel for the appellant and the learned counsel for 1st respondent.

8.This Court has carefully considered the submissions made on the side of the appellant and the materials available on record.

9.This Court has also carefully gone through the award passed by the Tribunal.

10.The learned counsel for the appellant heavily relied upon the evidence of P.W.1 and also the report of the Motor Vehicle Inspector which was marked as Ex.R1 & Ex.R2. The learned counsel submitted that the claimant came up with a false case as if the goods carrier had hit the two wheeler from behind and whereas, the report of the Motor Vehicle Inspector brings out the fact that it was the two wheeler which had dashed the goods carrier on the rear side.



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11.The evidence of P.W.1 is in line with the stand taken in the claim petition to the effect that the offending vehicle was driven in a rash and negligent manner and had dashed on the two wheeler when the claimant was attempting to cross from the service road to the main road. During cross examination, the report of the Motor Vehicle Inspector was shown to the claimant and it was pointed out that the damages to the two wheeler was entirely on the front side. The claimant answered in the affirmative.

12.It is true that the Insurance Company had taken steps to summon the driver of the offending vehicle, but however, he never turned up. Therefore, what is now available before the Court is the evidence of P.W.1 and the report of the Motor Vehicle Inspector.

13.The evidence of P.W.1 has not been discredited to the extent that it cannot be relied upon by the Court. The answer given by P.W.1 while he was shown the report of the Motor Vehicle Inspector, by itself does not mean that P.W.1 had admitted that he had dashed on the rear



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side of the offending vehicle. The report of the Motor Vehicle Inspector by itself is not a substantive evidence. If the Insurance Company had examined the driver of the offending vehicle, the report of the Motor Vehicle Inspector would have become a strong corroborative piece of evidence to support the evidence of the driver of the offending vehicle. In the absence of the same, it is too difficult to discredit the evidence of P.W.1 by only relying upon the report of the Motor Vehicle Inspector.

14.The Tribunal has properly applied the principle of preponderance of probabilities and has held that the negligence is attributable only to the driver of the offending vehicle. This finding of the Tribunal does not suffer from any illegality or perversity requiring the interference of this Court. The compensation that has been fixed by the Tribunal is very reasonable and it does not require the interference of this Court.

15.In the result, this Civil Miscellaneous Appeal is dismissed and the quantum of compensation fixed by the Tribunal at Rs.3,14,169/- stands affirmed. There shall be a direction to the appellant - Insurance Company to deposit the entire compensation amount along with interest



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at the rate of 7.5% per annum, less the amount already deposited within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is entitled to withdraw the amount. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. Consequently, the connected Miscellaneous Petition is closed. No costs.

29.07.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Hosur.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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