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C.M.A.No.2624 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

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1. Selvambal
2. Kuppusamy

... Appellants

Vs.

1. R.Kumar
2. Reliance General Insurance Co., Ltd.,
Sri Lakshmi Complex, 1st Floor,
Omalur Main Road, Bharathi Nagar,
Swarnapuri, Salem District 636 004.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the order in MCOP.No.109 of 2020, dated 19.07.2023, on the file of the Motor Accident Claims Tribunal/Additional District Judge Court, Namakkal.

For Appellant	: Mr.T.S.Arthanareeswaran
For R1	: Dispensed with
For R2	: Mr.P.Suresh Srinivasan

JUDGEMENT



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This Civil Miscellaneous Appeal has been preferred by the appellants/claimants, seeking enhancement of the quantum of compensation awarded by the Tribunal in MCOP.No.109 of 2020, dated 19.07.2023.

2. On 18.12.2019, at about 3.00 p.m., when the deceased namely Mr.Veerappan was riding his two wheeler, namely, TVS 50 bearing Reg.No.36-Z-4297, he was hit by a two wheeler namely Bajaj Discover Bike bearing Reg.No.TN-28/AR/2308, which came from opposite direction in a rash and negligent manner. As a result of which, the said Mr.Veerappan sustained grievous injuries all over his body and he had succumbed to death. Hence, the appellants, who are the legal heirs of the deceased, filed a Claim Petition before the Tribunal, seeking a sum of Rs.15,00,000/- as compensation.

3. On consideration of both oral and documentary evidence, the Tribunal has awarded a sum of Rs.77,219/- towards compensation to the appellants. Being not satisfied with the quantum of the compensation, the appellants have filed the present appeal.

4. The learned counsel for the appellants submitted that, the deceased



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was well at the time of accident and he was doing agricultural works and was earning a sum of Rs.15,000/- per month. Without considering the same, the Tribunal has only awarded a sum of Rs.77,219/- as compensation towards “medical expenses” only without awarding any amount in respect of other heads. The main grievance of the appellants is that, the Tribunal ought to have considered the other heads and awarded the compensation. Hence, he requests this Court to award appropriate compensation in favour of the appellants.

5. The learned counsel appearing for the second respondent/Insurance Company submitted that the factum of the accident is doubtful. Under these circumstances only, the Tribunal has awarded compensation towards medical expenses only. Even assuming the factum of accident is proved, the deceased had sustained only minor injuries, for which, he was admitted in the hospital and all the medical expenses which were incurred by the appellants, have been awarded by the Tribunal. Further, he would submit that, in the present case, the injuries sustained by the injured not due to the cause of accident. Hence, he submitted that the compensation awarded by the Tribunal, is just and fair, which requires no interference.

6. Heard the learned counsel for the appellants and the learned



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counsel for the second respondent and perused the materials available on record.

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7. In the present case, the accident said to have been taken place on 18.12.2019 at about 3.00 p.m., and immediately, the deceased was admitted in Sivasakthi Hospital, Sendamangalam for first aid treatment. Thereafter, the deceased was shifted to Akshaya Hospital, Namakkal, for further treatment. Further, the Doctor of the Akshaya Hospital, who is the proprietor of the hospital stated that he saw the injured on 19.12.2019 at about 6.00 p.m., and he has admitted in cross-examination that he has not informed about the occurrence of accident to police. However, in discharge summary, it has been stated that he was admitted in the said hospital on 18.12.2019 at about 6.00 p.m., and it shows that the Doctor took 24 hours to see the patient to give treatment which has created suspicion to this Court with regard to the occurrence of the accident itself. Further, he has admitted that he has not intimated about the accident to the concerned police and an FIR was filed only on 22.12.2019 with a delay of 4 days and on behalf of the 2nd respondent, no official of the police to give the details as regards the delay in filing the FIR, etc., and these are the circumstances create suspicion in the mind of this Court with regard to the occurrence of the accident itself and the same doubt was expressed by the Tribunal also. However, the Tribunal has considered and liberally ordered



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medical expenses incurred by the appellants.

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8. This Court is of the view, the Tribunal ought not to have ordered medical bills since it is stated that due to the accident, the deceased sustained injuries in his right hand and right shoulder and above the left eye. However, the Doctor, who treated the deceased also stated that he had given only medicine, and at the time of discharge, he was alright and later, he was re-admitted in the hospital only for the purpose of memory loss, low pressure and fever, and these are all nothing to do with the alleged accident sustained by the injured. Under these circumstances, even the compensation awarded towards medical expenses also, is liable to be set-aside, since the occurrence of the accident itself is doubtful and the same has not been proved. Even then, the Tribunal has considered the matter and liberally awarded compensation towards the medical bills, which is reasonable and sufficient and the claim of the appellants to award more compensation under other heads, cannot be entertained. This Court, is not inclined to interfere with the award passed by the Tribunal. Hence, the compensation awarded by the Tribunal, stands confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. The second respondent-Insurance Company is directed to deposit the said amount



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along with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.109 of 2020 on the file of Additional District Judge Court, Namakkal. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. No costs.

27.02.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accident Claims Tribunal
Additional District Judge Court, Namakkal.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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