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C.M.A.No.3335 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3335 of 2024

T.Narayana Reddy

...Appellant

Vs.

1. P.Shanmugam

2. The Manager,
Shriram General Insurance Company Ltd.,
10003-E.8, RIICO Industrial Area, Sitapura,
Jaipur, Rajasthan – 302 022.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to enhance the compensation amount and fix the entire liability on 2nd respondent made in Judgment and decree dated 07.12.2020 in MCOP.No.222 of 2018 on the file of the Motor Accident Claims Tribunal, Additional District Court, Hosur.

For Appellant : Mr.S.P.Yuaraj

For Respondents : Mrs.R.Sreevidhya, for R2
: Notice Dispensed with, for R1



C.M.A.No.3335 of 2024

JUDGEMENT

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Challenging the judgment and decree dated 07.12.2020 made in MCOP.No.222 of 2018 on the file of the Motor Accident Claims Tribunal, Additional District Court, Hosur, the claimant is before this Court.

2. Mrs.R.Sreevidhya, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. Since the 1st remained exparte before the tribunal, notice to the 1st respondent is dispensed with.

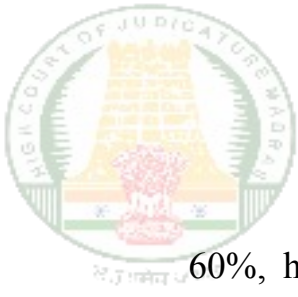
4. It is the case of the appellant/claimant that, on 30.05.2015 at about 20.45 hours, when the petitioner was riding the Bajaj Pulsar Motorcycle bearing Regn.No.TN-70-J-4666 in Hosur to Krishnagiri NH road, at that time, an auto bearing Regn.No.TN-70-B-1832 owned by the 1st respondent insured with the 2nd respondent driven by its driver in a rash and negligent manner came in the opposite direction and dashed against the motorcycle driven by the



C.M.A.No.3335 of 2024

appellant, due to which the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.25,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.11 and on the side of respondents no documents were marked and no witness was examined. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent, however, fixed a contributory negligence of 25% on the part of the appellant for not possessing valid license and awarded a meagre compensation of Rs.6,76,428/-. Challenging the same, the appellant/claimant has come up with this appeal.

5. Learned counsel appearing for the appellant submitted that admittedly, at the time of accident, the appellant was driving the vehicle slowly and diligently and the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained multiple fracture injuries and lacerated wounds all over his body and the medical board also assessed a partial permanent disability of



C.M.A.No.3335 of 2024

60%, however, the tribunal had awarded a meagre compensation under the head Disability and no compensation has been awarded under the head loss of income during treatment period and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced. Further, the tribunal fixed a contributory negligence of 25% on the part of the appellant for not possessing valid license, which is on higher side and the same has to be reduced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

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

8. A perusal of the impugned award dated 07.12.2020 made in MCOP.No.222 of 2018, this Court is of the view that the compensation



C.M.A.No.3335 of 2024

awarded by the tribunal is just and reasonable and the same does not require any further enhancement and thereby, the quantum of compensation fixed by the Tribunal towards the injuries sustained by the appellant is confirmed.

9. Insofar as the negligence is concerned, the tribunal had fixed a contributory negligence of 25% on the part of the appellant for not possessing valid driving license. Mere non possession of driving license cannot be taken to mean that the contribution is highly on the side of the appellant/claimant. At best, not holding of valid driving license can only result in a contributory negligence of 10% and fixing 25% contributory negligence is perverse. Hence, this Court while confirming the quantum of compensation fixed by the tribunal, modifies the contributory negligence fixed on the petitioner from 25% to 10%.

10. After reducing 10% for the negligence fixed on the part of the appellant for not possessing valid driving license from the total compensation



C.M.A.No.3335 of 2024

fixed by the tribunal ie., Rs.9,01,903/- before deducting 25% towards contributory negligence, the compensation payable to the appellant/claimant by the 2nd respondent comes to Rs.8,11,712.70/-.

11. Accordingly, the appeal is allowed in part and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.6,76,428/- to Rs.8,11,712.70/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.222 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on

the enhanced compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. No Costs.



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C.M.A.No.3335 of 2024

20.12.2024

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

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



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C.M.A.No.3335 of 2024

M.DHANDAPANI, J.

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C.M.A.No.3335 of 2024

20.12.2024