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CMA.No.504 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.No.504 of 2023

C.Dineshkumar

... Appellant

-Vs-

1.J.Senthil Raja

2.IFFCO TOKKIO General Insurance Company Ltd.
No.58A, Sri Anjanaya Tower, 2nd floor,
Pavazha nagar, Villupuram main road,
Reddiyarpalayam, Pondicherry-605 005.

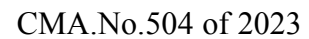
...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal award passed by the learned Additional Sub-Court, Vridhachalam (Motor Accident Claims Tribunal) dated 27.4.2022 in MCOP/111/2022.

For Appellant : Mr.S.Udhayakumar

For R1 : Ex-parte

For R2 : Mr.S.Arunkumar



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This Civil Miscellaneous Appeal has been filed challenging the

2 The appellant is the claimant in MCOP No 111 of 2022 on the file

3.The Tribunal considering the pleadings, oral and documentary



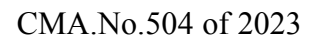
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4.Challenging the fixation of 50% contributory negligence against the claimant/appellant, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant submitted that on 09.02.2020 at 17.15 p.m. when the appellant was driving his two wheeler from Karuvepilankurichi to T.V.Puthur, near Karuvepilankurichi Jeyamkondam road the first respondent lorry bearing Regn.No.TN 28 AL 7195 came from the opposite direction in a rash and negligent manner and hit on the two wheeler of the appellant. Due to the accident, the appellant lost his teeth and sustained fracture on his face and also sustained injury on his upper lip. The learned counsel would therefore, contend that fixing the liability to the extent of 50% as against the injured appellant is not justifiable and hence, prays that the negligence be fixed in the ratio 70:30, ie., 70% as against the second respondent/insurance company and 30% as against the claimant.

6.On the other hand, the learned counsel for the second respondent insurance company would submit that the Tribunal has fastened the liability to the extent of 50% as against the appellant because the appellant



7. Hence, without going into the merits of the case, the liability as by the Tribunal in the ratio 50:50 is modified as 70:30, ie., 70% of liability shall be borne by the second respondent/insurance company and 30% shall be borne by the claimant. On all other aspects, the Award of the Tribunal stands confirmed.

8. Accordingly, the Civil Miscellaneous Appeal stands partly allowed. The second respondent/insurance company is directed to deposit a sum of Rs.1,80,712/- together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.111 of 2022 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Vridhachalam, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the



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Appellant/Claimant through RTGS, within a period of three weeks thereafter. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

14.02.2024

Tsg

Index : Yes / No
Internet : Yes / No

To

- 1.The Motor Accident Claims Tribunal,
Additional Subordinate Judge, Vridhachalam.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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KRISHNAN RAMASAMY, J.,

Tsg

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