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C.M.A.No.1565 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1565 of 2019

Ramesh Babu

...Appellant

.Vs.

1. Marimuthu

2. The Manager,
United India Insurance Company Limited,
52, General Muthiah Mudali Street,
Sowcarpet, Chennai – 600 079.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 03.09.2010 in M.C.O.P.46 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thiruvallur.

For Appellant : Mr.E.Ashok Kumar
for Mr.D.Baskar

For R2 : Mr.J.Michael Visuvasam



C.M.A.No.1565 of 2019

WEB COPY

JUDGMENT

The appellant is the claimant in M.C.O.P.46 of 2009 on the file of the Motor Accident Claims Tribunal, Thiruvallur. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 19.04.2008.

2. The brief case of the claimant is as follows:

On 19.04.2008, the claimant was riding his motorcycle bearing Registration Number TN-20-AB-2054 on Thirumangalam east main road and at about 9.00 a.m., a speeding car bearing Registration Number TN-02-AA-1307 hit the motorcycle, as a result of which, the claimant sustained injuries all over his body and was admitted in the hospital.

3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration Number TN-02-AA-1307 was the cause of the accident and that since the said car was insured with the second



respondent, the United India Insurance Company Limited, the owner of the car and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the owner of the car remained absent and was set *ex parte*. The second respondent, the United India Insurance Company Limited contested the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, vide its orders dated 03.09.2010, fastened negligence on the part of the driver of the car and further held that the owner of the car and the insurer are jointly and severally liable to pay compensation of Rs.1,00,000/- to the appellant (claimant) together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.



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7. Heard Mr.E.Ashok Kumar, learned counsel for the appellant and Mr.J.Michael Visuvasam, learned counsel for the second respondent.

8. Mr.E.Ashok Kumar, learned counsel appearing for the appellant contended that the compensation awarded by the Tribunal is not commensurate with the injuries sustained by the claimant. He therefore, prayed for enhancement of compensation.

9. Per contra Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. It is seen from the records that the claimant had sustained a fracture on his left femur. Dr.Thiyagarajan (P.W.2) assessed the partial permanent disability of the claimant as 45%. It is pertinent to point out that P.W.2 is not the doctor who gave treatment to the claimant. Under this



C.M.A.No.1565 of 2019

circumstance, the Tribunal reduced the disability to 40%. Since there is no functional disability, the Tribunal fixed a sum of Rs.2,000/- per percentage of disability and awarded a sum of Rs.80,000/- towards partial permanent disability which is very much reasonable. The Award passed by the Tribunal under the other heads is more than sufficient. Therefore, I do not see any reason to interfere with the same.

11. In the result,

- i. The Civil Miscellaneous Appeal is dismissed. No costs.
- ii. The Award dated 03.09.2010 in M.C.O.P.46 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Thiruvallur, is hereby confirmed.

23.10.2024

Index : Yes/No
Speaking / Non-speaking order
mtl



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To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court, Thiruvallur.

2. The Manager,
United India Insurance Company Limited,
52, General Muthiah Mudali Street,
Sowcarpet, Chennai – 600 079.

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



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CMA.No.1565 of 2019

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