



WEB COPY



C.M.A.No.255 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.255 of 2022

Elumalai

... Appellant /Petitioner

Vs.

1. C. Sekar

2. Karuna

[R1 & R2 remained ex-parte before Tribunal]

3.The Oriental Insurance Co Ltd.,
115, Broadway Road,
Chennai – 1.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 21.12.2009 made in M.C.O.P.No.4949 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge (Fast Track Court) – I, Chennai.

For Appellant : Mr. F. Terry Chella Raja

For R1 & R2 : Ex-parte

For R3 : Mr. Elveera Ravindran



C.M.A.No.255 of 2022

JUDGMENT

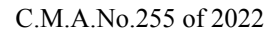
WEB COPY

This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation against the award passed by the Tribunal in M.C.O.P.No.4949 of 2004, dated 21.12.2009, on the file of the Motor Accident Claims Tribunal, Additional District Judge (Fast Track Court) – I, Chennai.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the claimant is that on 01.05.2004 at about 7.00 p.m., while he was riding his bicycle on the ECR Road near Veppancherry Village, Cheyyur Taluk, Kanchipuram District, a lorry bearing Registration No.TN 01 D 7657 belongs to the second respondent driven by its driver in rash and negligent manner, hit behind the petitioner and caused accident thereby, the petitioner has sustained several injuries and after taking treatment, he has come forward with the claim petition claiming compensation of Rs.2 lakhs by invoking Section 166 of the Motor Vehicles Act.

4.The third respondent, the insurer of the lorry alone has contested the



5. After considering the evidence placed on record, the Tribunal has awarded compensation of Rs.62,500/- along with interest at the rate of 7.5% per annum from the date of filing of petition till the date of deposit.

7. The learned counsel for the appellant submits that the petitioner has sustained grievous injuries on his right hand, which resulted in causing 60% disability. Though the Doctor who assessed the disability has deposed before the Tribunal that the claimant has sustained 60% disability, the Tribunal reduced the same and fixed 50% as disability, is not proper. The learned counsel further submits that the compensation awarded under other heads are also on the lower side hence prays to enhance the same.

3/8



C.M.A.No.255 of 2022

that the accident was taken place in the year 2004 and based on the norms followed for awarding compensation, the Tribunal has quantified and awarded compensation and there is no reason to interfere or enhance the compensation. Hence, prays to dismiss the claim.

9.I have considered the rival submissions made on both sides and also perused the records available.

10.It is the evidence of P.W.2-Doctor, who assessed the disability that the claimant has sustained fracture on the right elbow and it has been subsequently, malunited and causing disability to the extent of 60%. There is no medical records except the Admission Card issued by the Government Hospital produced by the claimant to show that the treatment history of him. Though the Admission card shows that he was admitted in the Medical College Hospital, Chengalpattu due to the road accident on 02.08.2004, he was discharged on 08.08.2004. Thereafter, there is no evidence to show that he has undergone further treatment. Except the fracture on elbow, no other injury has been recorded in the admission card also.

11.According to P.W.2-Doctor, his movement of the hand has been restricted to 20% and he was not able to bend his hand beyond 60%. This



C.M.A.No.255 of 2022

has been accepted by the Tribunal and fixed the disability as 50%. I am of the view that the percentage of disability fixed by the Tribunal on the higher side. Since the Tribunal accepted 50% as disability of the claimant and awarded compensation based on the norms followed by this Court, I am not inclined to interfere with the said finding. The Tribunal further quantified the compensation for disability by fixing Rs.1,000/- per injury as a compensation and awarded Rs.50,000/-. Similarly, the Tribunal has also awarded a sum of Rs.1,500/- under the head Transport to Hospital and a sum of Rs.1,000/- under the head Extra Nourishment and a sum of Rs.500/- under the head damages to clothes and a sum of Rs.4,500/- under the head loss of income during the treatment period and also a sum of Rs.5,000/- under the head Pain and sufferings . The Tribunal has elaborately given the reasons for awarding compensation under various heads and this Court finds there is no reason to interfere with the said finding and the appeal is liable to be dismissed.

12. In the result, this Civil Miscellaneous Appeal is dismissed. The Judgment and Decree dated 21.12.2009 made in M.C.O.P.No.4949 of 2004 passed by the Motor Accidents Claims Tribunal, Additional District Judge (Fast Track Court) – I, Chennai is hereby confirmed. The Insurance



C.M.A.No.255 of 2022

Company is directed to deposit the award amount as determined by the Tribunal along with interest and costs, 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.4949 of 2004, on the file of the Motor Accidents Claims Tribunal, Additional District Judge (Fast Track Court) – I, Chennai, excluding the default period, if any. On such deposit, the claimant is permitted to withdraw the award amount as awarded by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

19.12.2024

ssi

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

To

1.The Additional District Judge,
Fast Track Court - I

6/8



WEB COPY

Motor Accidents Claims Tribunal,
Chennai.

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



C.M.A.No.255 of 2022

K.RAJASEKAR,J

ssi



WEB COPY



C.M.A.No.255 of 2022

C.M.A.No.255 of 2022

19.12.2024