



C.M.A.(MD).No.616 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.12.2023

PRONOUNCED ON : 08.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.616 of 2012

and

M.P.(MD)No.1 of 2012

Royal Sundaram Alliance Insurance Company Ltd.,
Chennai, through its Branch Manager,
No.45, 46, Whites Road,
Chennai 600 014.

... Appellant

Vs.

1.Narayanan @ Surendar
2.NEG Micon India (P) Ltd.,
298, Old Mahabalipuram Road,
Sholinganallur, Chennai 600 019.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 04.01.2010 and made in M.C.O.P.No.516 of 2007 on the file of Motor Accident Claims (Principal Sub Judge), Tirunelveli.

For Appellant	: Mr.S.Srinivasa Raghavan
For R2	: Mr.D.Venkatesh
For R1	: No Appearance



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JUDGMENT

This Civil Miscellaneous Appeal has been directed as against the judgment and award passed by the learned Motor Accident Claims Tribunal, Principal Sub Judge, at Tiurnelveli in M.C.O.P.No.516 of 2007 dated 04.01.2010, challenging the liability and quantum awarded.

2.For the sake of convenience, the parties are addressed herein as per the rank in M.C.O.P.No.516 of 2007.

3.The factual matrix of the present case, briefly stated, are as under:-

This is a injury case. On 28.07.2007, at about 22.45 hours, the petitioner was riding a M 80 motor cycle bearing registration No.TN-72-T-3578 in the main road, Surandai in front of S.P.N shop, while so another motorcycle bearing registration No.TN-22-AB-4743 belonging to the first respondent insured with the second respondent driven by its rider in a rash and negligent manner, dashed against the petitioner's motorcycle in the opposite direction. As the result of which, the petitioner sustained multiple injuries. At the first instance, he was

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admitted in Government hospital, Tenkasi and thereafter, he was shifted to TVMC Hospital, Tirunelveli wherein he took treatment as in patient from 29.07.2007 to 02.08.2007. Following which, he was admitted in the Ponram Hospital, Surandai and took treatment as in patient from 02.08.2007 to 20.08.2007. So seeking compensation of a sum of Rs. 5,00,00/- for the injuries sustained by him, the petitioner filed M.C.O.P.No.516 of 2007.

4.The second respondent had filed a counter refuting all the allegation set forth in the claim petition.

5.The learned Tribunal has framed two issues, examined two witnesses P.W.1 and P.W.2 on the side of the petitioner and marked Ex.P1 to Ex.P14 and neither witness nor document was marked on the side of the respondents. The first respondent was called absent and set exparte before the learned Tribunal. The learned Tribunal after perusing the materials available on record and evidence deposed by P.W.1 and P.W.2 and also considering the arguments put forth by the petitioner and the second respondent has concluded that the driver of the first respondent



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vehicle was responsible for the accident and thereafter, passed the award.

On the basis of the Doctor certifying partial permanent disability as 43%, the learned Tribunal fixed the compensation of Rs.1,500/- per percentage and calculated the partial permanent disability at Rs.64,500/- (Rs. 1,500x43%). The learned Tribunal has awarded compensation under following heads:-

Head	Compensation awarded
(i)Partial Permanent Disability:	Rs.64,500 [43% - Rs.1,500/- per percentage (1,500x43)]
(ii)Pain and suffering:	Rs.25,000/-
(ii)Extra Nourishment:	Rs.5,000/-
(iii)Transportation Expenses:	Rs.5,000/-
(iv)Loss of Income:	Rs.5,000/-
(v)Medical Expenses (on the basis of medical bills Ex.P10):	Rs.1,30,000/-
Total compensation awarded:	Rs.2,34,500/- with interest @ 7.5 % from the date of the claim until the realization and costs.

6.Challenging the same, the second respondent insurance company has filed this Civil Miscellaneous Appeal challenging medical expenditure of Rs.1,30,000/-, which has been granted by the learned Tribunal on the basis of Ex.P10 medical bills to a tune of Rs.1,33,285/-.



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7.The contention of the appellant is that the entire medical bills marked as Ex.P10 were fabricated and at the time of cross examination, a question as to the genuinity of the same was also raised before the learned Tribunal and the learned counsel for the appellant submitted that Ex.P10 was not proved through proper source.

8.A critical perusal of the award passed by the learned Tribunal would reveal that the learned Tribunal had properly perused each and every document especially Ex.P3, wound certificate, Ex.P8 disability certificate, Ex.P9, scan report Ex.P10, medical bills, Ex.P11 X ray, Ex.P12 medical report, Ex.P13 wound certificate, Ex.P14 X ray and after considering the evidence deposited by P.W.1 and P.W.2, the learned Tribunal found Ex.P10 marked through the petitioner is genuine and on the basis which, the learned Tribunal has passed by the award.

9.In view of the same, I am not inclined to interfere in the order passed by the learned Tribunal. Hence, the Civil Miscellaneous Appeal



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L.VICTORIA GOWRI, J.

Mrn

stands dismissed. There shall be no order as to costs. Consequently,
connected miscellaneous petition is closed.

08.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Motor Accidents Claims Tribunal,
Principal Sub Judge, Tirunelveli.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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