



C.M.A(MD)No.284 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 09.07.2024

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THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.M.A(MD)No.284 of 2021

Balakrishnan

... Appellant / Respondent

Vs.

Krishnamoorthi

... Respondent / Petitioner

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 Motor vehicles Act to set aside the fair and decretal order dated 20.08.2019 and made in MCOP No.108 of 2018 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, in so far as it relates to the findings on negligence on the part of the appellant / respondent and also the consequential grant of compensation to the respondent / claimant.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondent : Mr.S.Poorna Chandran



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JUDGMENT

This Civil Miscellaneous Appeal is filed to set aside the fair and decretal order dated 20.08.2019 and made in MCOP No.108 of 2018 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, in so far as it relates to the findings on negligence on the part of the appellant / respondent and also the consequential grant of compensation to the respondent / claimant.

2. On 29.08.2017, the petitioner was riding a two wheeler bearing registration number TN 42 M 6940 with one Rajakannu as a pillion rider. When he was nearing the place of occurrence, near the Arasakulam bus stop, a vehicle coming in the opposite direction bearing registration number TN 63 L 7869 in a rash and negligent manner in the Silukkupatti - Kalayarkovil main road, hit the two wheeler. Because of the impact, the petitioner suffered fracture on the left knee, two fracture in his right hand knee and abrasion all over his body. He was taken to the Government Medical College Hospital, Sivagangai and he was inpatient from 29.08.2017 to 15.09.2017. A case was registered in Crime No.365 / 2017 and he was doing milk vending business. Apart from that agricultural coolie work and earning a sum of Rs.15,000/-.



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Because of the accidental injuries he could not carry out the work as before.

Claiming compensation amount of Rs.10 Lakhs, the claim application was filed.

3. That was resisted by the respondent in the main petition stating that only because of the rash and negligent driving on the part of the petitioner, the occurrence took place. There was a delay of 3 days in preferring the complaint. Other customary denials were made.

4. At the conclusion of the enquiry, the Tribunal recorded a finding of fact regarding the first aspect of negligence that it occurred due to the rash and negligent driving on the part of this appellant, accordingly, fastened the liability on the appellant to pay the compensation.

5. Regarding the compensation amount, on the basis of Ex.C1 - the disability certificate issued by the Medical Board, it fixed the partial permanent disability at 40%. By adopting percentage method, Rs.3,000/- was fixed as compensation per percentage. To that, the customary amounts were added and finally it awarded Rs.1,82,000/-. Against which, the appeal has been preferred by the appellant.



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6. Heard both sides.

7. It is the case of the appellant that a wrong finding has been recorded by the Tribunal as to the first aspect of negligence. Perusal of the order of the trial Court shows that both were proceeding in opposite directions. The appellant was also examined as R.W.1. He stated in his evidence that due to the accident, he suffered injuries and spent more than Rs.64,000/- towards medical expenses. The occurrence did not take place as mentioned by the claimant but in a nearby place namely Arasakulam cremation ground. It is the further contention that the petitioner crossed the road to his wrong side and hit his vehicle. The appellant was charge sheeted by the police and he admitted the guilt before the trial Court and paid the fine amount also. Some contra evidence was spoken by R.W.1 that he did not appear before the Court and paid the fine.

8. Such sort of contention cannot be accepted. When the appellant himself admitted the guilt, no further enquiry be needed by the Court to fasten the liability. So the ground on which his liability is question does not lie and the finding of fact by the trial Court requires no interference. Regarding the



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compensation amount it was reasonably fixed by the Tribunal. When there is 40% disability is assessed by the competent Medical Board, no exception can be taken. Taking Rs.3,000/- per percentage of disability, is also not on the higher side. Loss of income was estimated at Rs.22,500/-(7500 x 3) at the rate of Rs.7,500/- for a period of three months, since he underwent surgery and out of work in the above said period of treatment. Pain and sufferings was reasonably fixed. Attendant charges and extra nourishment charges also reasonably fixed which requires no interference. No sustainable ground was advanced by the appellant.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed and the award dated 20.08.2019 made in MCOP No.108 of 2018 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, is confirmed. No costs. Consequently, connected miscellaneous petition stands closed.

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NCC: Yes / No
Index: Yes / No
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To

- 1.The Motor Accident Claims Tribunal (Chief Judicial Magistrate),
Sivagangai.
- 2.The Section Officer, Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.

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