



C.M.A.(MD)No.574 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.574 of 2024
and C.M.P.(MD)No.7313 of 2024

Divisional Manager,
Oriental Insurance Company Limited,
Chennai, Divisional Office,
DDJ Center, Vadaseri, Nagercoil,
Nagercoil Village, Agastheeswaram Taluk,
Kanyakumari District. ... Appellant/Respondent No.3

Vs.

1.Sivachitra	... 1 st Respondent/Petitioner
2.V.Perumal	...2 nd Respondent/1 st Respondent
3.Khader Mohideen	...3 rd Respondent/2 nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.10.2013 passed in M.C.O.P.No.268 of 2022 on the file of the Motor Claims Tribunal cum Special Court for Forest Offences, Nagercoil.

For Appellants : Mr.E.Chandrasekaran

For R1 : Mr.D.Saravanan

For R2 & R3 : Dispensed with



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J U D G M E N T

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The instant appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. A claim petition was filed for the damages caused to the lorry of the claimant in the accident. Since the appeal challenges the quantum of compensation, it would be unnecessary to narrate the facts leading to the filing of the claim petition and the manner of accident for the disposal of the instant appeal.

3. The learned counsel for the appellant contended that the Tribunal had awarded an excess amount of Rs.2,50,000/- as total compensation; that the Tribunal has ignored the fact that the claimant had received a sum of Rs.78,000/- by sale of the damaged lorry, which has to be deducted; that Rs.40,000/- awarded as loss of income does not arise in a case, where the compensation was claimed for damage to the vehicle; that the claimant had not established that he had spent Rs.10,000/- towards towing charges; and therefore, there is no need to award compensation under the said head.



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4. The learned counsel for the 1st respondent/claimant, per contra submitted that the Tribunal had awarded the compensation by taking note of the sale consideration received by the appellant by the sale of the lorry after the accident; that the award of compensation under the other heads is reasonable; and hence, prayed for dismissal of the appeal.

5. This Court gave its anxious consideration to the submissions made on either side and perused the materials available on record carefully.

6. The only point for consideration in the instant appeal is whether the award of compensation is just and reasonable.

7. As regards the 1 submission of the appellant that Rs.78,000/- being the sale consideration of the damaged lorry should be deducted, this Court is of the view that the Tribunal had awarded Rs.2,00,000/- (Rupees Two Lakhs only) towards damage to the lorry after taking into consideration the fact that the appellant had sold the lorry for Rs.78,000/-. Since the sale consideration has already been taken into consideration, there cannot be any further deduction. Hence, the amount



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of Rs.2 lakhs awarded as compensation for the damage caused to the lorry is justified.

8. The learned counsel for the appellant has rightly pointed out that since the claim petition was filed claiming compensation for the damage to the vehicle, the Tribunal ought not to have awarded compensation under the head 'loss of income' in the absence of any evidence. This Court is of the view that Rs.40,000/- awarded under the head loss of income is not justified and the claimant would not be entitled to the amount of compensation under the head.

9. As regards the amount awarded under the head towing charges at Rs.10,000/-, there is no evidence produced on the side of the claimant for spending the said sum. Therefore, this Court is of the view that a sum of Rs. 10,000/- awarded under the said head may not be justified. Thus, a sum of Rs.50,000/- has to be reduced from the total compensation granted by the Tribunal. The 1st respondent/claimant is entitled to a total compensation of Rs.2 lakhs.



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10. The learned counsel for the appellant submitted that a portion of the award amount was deposited to the credit of M.C.O.P. No.268 of 2022 on the file of the Motor Accidents Claims Tribunal cum Special Court for Forest Offences, Nagercoil. The appellant shall deposit the balance amount, if any, as per the above award with accrued interest within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the same by filing a suitable application.

11. In the result, the appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2024

Index Yes/No
Neutral Citation: Yes/No
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To
1.Motor Accident Claims Tribunal Judge
(Subordinate Judge) of Periyakulam.

2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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SUNDER MOHAN, J.

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