



C.M.A.(MD).No.425 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.425 of 2022
and C.M.P.(MD).No.3763 of 2022

The Branch Manager,
M/s.Cholamandalam MS General,
Insurance Company Ltd.,
Dare House, II Floor,
No.2, NSC Bose Road,
Chennai – 620 001.

... Appellant/2nd Respondent

Vs.

1.Meena

... 1st Respondent/Petitioner

2.V.Pannerselvam

... 2nd Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.No.107 of 2014 on the file of the Motor Accident Claims Tribunal, (Sub Court), Sivakasi, dated 04.09.2021.

For Appellant : Mr.K.R.Shivashankari

For Respondents : Mr.P.Kalaiyarasi Bharathi for R1

Mr.L.George Paul Anto for R2



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JUDGMENT

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This appeal has been filed to set aside the judgment and decree passed in M.C.O.P.No.107 of 2014 on the file of the Motor Accident Claims Tribunal, (Sub Court), Sivakasi, dated 04.09.2021.

2.The facts in brief:

On 08.06.2013 at about 9.15 a.m., the petitioner along with the workers walked on the road near Goat farm in Sattur to Irukkankudi road. At that time Omni van bearing registration No.TN 67 AA 9070 was driven by the driver in rash and negligent manner and dashed against the petitioner, who sustained grievous injuries on his clavical bone, nose, ear, etc. He was taken to Government Hospital, Sattur and got treatment as inpatient from 11.06.2013 to 15.06.2013. Case was registered in Crime No.130 of 2013 by Ammapatti police station. Claiming compensation amount of Rs.3 lakhs, this petition was filed.

3.That was also resisted by the Insurance Company stating that the occurrence took place because of the rash and negligent driving on the part of the petitioner. He suffered only simple injuries. The petitioner is



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having no proper driving licence.

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4.Regarding the first issue of negligence, the Tribunal recorded a finding that the accident occurred due to the rash and negligent driving on the part of the first respondent's driver. Regarding the compensation, on the basis of the disability certificate it fixed it as 53% it can be Rs.4,000 for 1%. To that customary amounts were added and finally awarded Rs.3,15,212/-. But finding that the first respondent's vehicle's driver was not owning proper driving licence, it directs the Insurance Company namely the appellant to pay the money and recover the same from the owner of the offending vehicle. Against which, this appeal has been preferred mainly questioning the quantum.

5.At the time of arguments, the learned counsel for the appellant would submit that the claimant suffered only 53% of partial permanent disability. So the quantum of compensation awarded by the tribunal is on higher side. Regarding the liability, pay and recovery was ordered. No argument was advanced on that aspect.



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6.The manner of the accident itself does indicate the rash and negligent driving on the part of the of the first respondent vehicle's driver. The petitioner was walking along the road. The first respondent's vehicle's driver came there and dashed against him, which shows that the first respondent's vehicle's driver was not taking care in driving the vehicle. On that aspect the order passed by the tribunal requires no interference.

7.Regarding compensation as mentioned above, it is stated that he was admitted as in patient on 11.06.2013 and discharged on 15.06.2013 for fracture on the left clavical bone. He was referred to the Medical Board attached to Virudhunagar, Government Medical College Hospital, the Medical Board has assessed the disability at 53% Ex.P1 is the certificate issued by the Board. The claimant was the mason, since suffered 53% of the disability, naturally it was caused inconvenient in his daily work. So the said amount of Rs.4000/- was taken as compensation per percent. I am of the considered view that that portion of the award requires no reason to interfere. Considering the age, nature of injury and nature of avocation, it was reasonably fixed.



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8.Compensation awarded under other heads were also reasonably fixed. I find no reason to interfere in the order passed by the Tribunal. So the appeal fails.

9.Accordingly, this civil miscellaneous appeal stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

Index : Yes / No
Internet : Yes / No
TM

To

1.The Subordinate Judge, Motor Accident Claims Tribunal, Sivakasi.

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



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G.ILANGO VAN,J.

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