



C.M.A(MD)No.229 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2024

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THE HONOURABLE MR.JUSTICE G. ILANGO VAN

C.M.A(MD)No.229 of 2021
and CMP(MD) No.1893 of 2021

The Branch Manager,
M/s.Oriental Insurance Co.Ltd.,
Door No.548, Tenkasi Road,
Rajapalayam, Virudhunagar District.

... Petitioner

Vs

1. P.Rameshkumar
2. Sri Jeyajothi and Co.,
Srishanmugar Mills, Door No.70, Alagai Nagar,
Rajapalayam.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, praying this Court to set aside order of the Motor Accident Claims Tribunal Cum Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur made in M.C.O.P.No.44 of 2019, dated 03.05.2019.

For Appellant : Mr. C.Jawahar Ravindran

For Respondents : Mr.S.Srinivasa Raghavan (R1)
Given Up (R2)



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JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside order of the learned Motor Accident Claims Tribunal Cum Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur made in M.C.O.P.No.44 of 2019, dated 03.05.2019.

2.The facts in brief:

On 06.06.2008 at about 02.30p.m., the first respondent was accompanied with his friend travelling in his two wheeler bearing registration No.TN 67 K 4269 on the left side of the road near Valankulam Kanmoi. At that time, the driver of the second respondent drove the bus bearing registration No. TN 67 S 3256 in a rash and negligent manner and dashed against the vehicle of the first respondent. The victim has sustained grievous injuries on his legs. In this regard, a case has been registered in Crime No.74 of 2008 against the driver of the 2nd respondent for the offences punishable under Sections 279, 337 and 338 of IPC.



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3.Grounds of Appeal:

The petitioner, who is the Insurance Company of the 2nd respondent vehicle has preferred the appeal on the following grounds that the Tribunal has wrongly applied the multiplier for assessing the disability compensation. The Tribunal has failed to note that the claimant has not suffered functional disability for applying multiplier method. The claimant has not suffered permanent disability. Since the claimant is still getting monthly salary from the Government, there is no loss of income. The Award raised by the Tribunal is very excessive. Hence, prays to reduce the Award amount fixed by the Tribunal.

4.However, on a perusal of the records, it is seen that the 1st respondent has already filed an appeal before this Court in C.M.A(MD) No.147 of 2021 for enhancement of the award amount. In the said appeal, after hearing both sides Judgment has been passed by this Court on 04.03.2021 with the following observation:

“4.Perusal of record shows that the appeal has been filed for enhancement of compensation. The avocation of the appellant is not disputed. The appellant is a Commercial Assistant in Tamil Nadu Electricity Board



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and still he is continuing in service and therefore, on account of his disability, the appellant did not suffer any loss of income. The learned Judge by reducing the percentage of disability from 75% to 45%, in my opinion, is not correct. In the Judgment relied on by the appellant there the claimant resigned his job on account of disability. But, in the present case, the appellant/claimant is still continuing his job and therefore, in my opinion, the learned Judge ought not to have adopted multiplier method. If disability compensation is given by taking into account of 75% as functional disability, it will be only at Rs.2,25,000/- and therefore though in the other heads, the compensations are very low, I am not inclined to interfere as the compensation given under the head of disability is on the higher side. The 2nd respondent/Insurance Company has also not filed any appeal.”

5.In view of the abovesaid observation, the matter has become infructuous. There is no order as to costs. Consequently connected miscellaneous petition is closed.

07.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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To
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- 1.The Motor Accident Claims Tribunal Cum Chief
Judicial Magistrate, Virudhunagar District at
Srivilliputhur
- 2.The Record Keeper,
Vernacular Section, Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J.

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**JUDGMENT IN
C.M.A(MD)No.229 of 2021
and CMP(MD) No.1893 of 2021**

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