



C.M.A.(MD).No.15 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.15 of 2018
and
C.M.P(MD) No.175 of 2018

The Block Development Officer,
Panchayat Union Office,
Devakottai Town,
Sivagangai District.

... Appellant/2nd Respondent

-vs-

1. R.Vinoth Gandhi

... 1st Respondent/Petitioner

2. M.Rajendran

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 07.12.2016 passed in M.C.O.P.No.240 of 2016 on the file of the learned Motor Accident Claims Tribunal-cum –Chief Judicial Magistrate, Sivagangai.

For Appellant : Mr.T.Villavan Kothai
Additional Government Pleader

For R-1 : Mr.A.Shajahan

For R-2 : No appearance



C.M.A.(MD).No.15 of 2018

J U D G M E N T

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The present Civil Miscellaneous Appeal has been filed by the owner of the Government vehicle, namely, the Block Development Officer, challenging the award passed in M.C.O.P.No.240 of 2016 on the file of the learned Motor Accident Claims Tribunal-cum-Chief Judicial Magistrate, Sivagangai, on the ground of negligence and quantum.

2. According to the injured claimant, he was aged about 28 years old and he was a Diploma Holder in Hotel Management. According to him, he was working in Malaysia, and he was earning a sum of Rs.20,000/- per month. He has further contended that he is an Income Tax assessee. The case of the claimant is that he was a pillion rider in a two wheeler driven by his friend Kaleeswaran. While they were travelling in the said vehicle on 23.04.2013 at about 02.25 p.m, the vehicle owned by the second respondent and driven by the first respondent came in a rash and negligent manner and dashed against the two wheeler. In the said accident, the rider of the two wheeler had passed away and the claimant who was a pillion rider was seriously injured.



C.M.A.(MD).No.15 of 2018

WEB COPY

3. The claimant had further contended that he had sustained grievous injuries, several fractures and plates have been inserted. Hence, he prayed for a compensation of Rs.20,00,000/- (Rupees Twenty Lakhs only).

4. The second respondent had filed a counter contending that the accident has taken place only due to the rash and negligent driving on the part of the rider of the two wheeler and they have also questioned the quantum of compensation as prayed for in the claim petition.

5. The Tribunal, after considering the oral and documentary evidence, has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the first respondent/driver. It has proceeded to fix the compensation as follows:-

5.1. The Tribunal relied upon Ex.P.23 – Disability Certificate, issued by the Medical Board to the effect that the claimant has sustained 60% of disability and for each percentage of disability a sum of Rs.3,000/- (Rupees Three Thousand only) has been awarded and the total sum of Rs.1,80,000/- (Rupees One Lakh and Eighty Thousand only) has been awarded towards permanent disability. The Tribunal has further awarded a sum of Rs.5,000/- (Rupees Five Thousand only) towards transport charges, a sum of Rs.5,000/-



C.M.A.(MD).No.15 of 2018

WEB COPY

(Rupees Five Thousand only) has been awarded towards extra nourishment, a sum of Rs.8,62,675/- (Rupees Eight Lakhs Sixty Two Thousand Six Hundred and Seventy Five only) has been awarded towards medical expenses, a sum of Rs.1,00,000/- (Rupees One Lakh only) has been awarded towards pain and suffering, a sum of Rs.5,000/- (Rupees Five Thousand only) has been awarded towards attender charges and another sum of Rs.45,000/- (Rupees Forty Five Thousand only) has been awarded towards loss of income during the treatment period. In total, a sum of Rs.12,02,675/- (Rupees Twelve Lakhs Two Thousand Six Hundred and Seventy Five only) has been awarded. Challenging the same, the present appeal has been filed by the second respondent in the claim petition.

6. According to the learned counsel appearing for the appellant, the Tribunal has not properly appreciated the oral evidence and the negligence ought to have been fixed only upon the rider of the two wheeler. He had further contended that under each one of the heads of the compensation, higher amount has been awarded. He further contended that the quantum of award under the heads of pain and suffering, permanent disability and loss of income are on the higher side and therefore, they are liable to be set aside.



C.M.A.(MD).No.15 of 2018

WEB COPY

7. Per contra, the learned counsel appearing for the 1st respondent/claimant had contended that, in fact, the Tribunal ought to have adopted the multiplier method and instead, adopted only disability method. Therefore, the compensation awarded by the Tribunal need not be disturbed.

8. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The primary contention of the learned counsel appearing for the appellant is that a sum of Rs.1,00,000/- (Rupees One Lakh only) has been awarded towards pain and suffering is on the higher side. I have gone through the medical records which are marked as Ex.P.12 to Ex.P.15 and had convinced that the trial Court was right in awarding a sum of Rs.1,00,000/- (Rupees One Lakh only). As far as the compensation amount of Rs.1,80,000/- (Rupees One Lakh and Eighty Thousand only) towards permanent disability is concerned, the trial Court has awarded a sum of Rs.3,000/- for per percentage of disability as fixed by the Medical Board. Therefore, I do not find any reason to interfere in the appeal and there are no merits in this appeal.



C.M.A.(MD).No.15 of 2018

WEB COPY

10. Considering the fact that the claimant was working in Malaysia, with Diploma in Hotel Management, the Tribunal was right in fixing a sum of Rs.45,000/- (Rupees Forty Five Thousand only) towards loss income during the treatment period. Considering the above said facts, I do not find any merit in the appeal.

11. Accordingly, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

19.06.2024

1/2

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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



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C.M.A.(MD).No.15 of 2018

R.VIJAYAKUMAR,J.

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C.M.A(MD)No.15 of 2018

19.06.2024
1/2