



C.M.A(MD)No.303 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.03.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.303 of 2024

Chinnakannan

... Appellant/Petitioner

Vs.

1. P.Vimala

2. The Branch Manager,
United India Insurance Company Limited,
Door No.178, 1st Upstairs,
Dr.Nanjappa Road,
Coimbatore.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order, dated 18.02.2023, passed in M.C.O.P.No.390 of 2018 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Court dealing with MCOP Cases), Palani, Dindigul District.



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For Appellant : Mr.C.K.M.Appaji

For R2 : Mr.Robert Chandrakumar

JUDGEMENT

This appeal is filed by the claimant against the order passed by the Tribunal.

2. It is a case of injury. The contention of the claimant is that after the accident he had taken treatment in the hospital as in-patient for more 64 days. Hence from the fact that the claimant was treated as in-patient for more than 64 days it can be concluded that the injury would be severe in nature. But the Tribunal has granted the compensation for pain and suffering as Rs.30,000/- and for future Medical Expenses as Rs.30,000/-. Hence, the claimant is seeking to increase the same. After hearing the submissions this Court is of the considered opinion that the Tribunal had granted Rs.30,000/- for medical expenses based on the bills and the same



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is sustainable. For pain and suffering the Tribunal had granted Rs. 30,000/- and the same is granted after taking into account the nature of injury and hence the Tribunal has correctly calculated and granted the compensation under the head pain and suffering.

3. As far as the contributory negligence is concerned, it is seen that the claimant has submitted three different statements and the Tribunal has disbelieved the same. The claimant submitted that when he was standing on the road side, the car dashed on him and caused accident. On perusal of the FIR, it reveals that the accident has been caused when the petitioner was proceeding in his bicycle, the car has been dashed on him and caused accident. The contents of the FIR further reveals that the car has been proceeding from west to east at the time of accident. But in the record, it shows that the petitioner had travelled from east to west. Therefore, the Tribunal disbelieved the same. Even though there are three different statements, the fact remains the accident had occurred. And it has occurred based on the negligence on the part of the victim as well since it is collision based on the negligence of both the parties.



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4. As far as the contributory negligence is concerned, this Court is fixing the negligence as 70:30, 70% on the part of the insurance company and 30% on the part of the claimant. The second respondent is directed to deposit the 70% compensation amount within a period of six weeks from the date of receipt of a copy of this order.

5. With the above said modification, this Civil Miscellaneous Appeal is disposed of. No costs.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
jbr

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To

- 1.MACT (Additional District and Sessions Court),
Palani, Dindigul District.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

jbr

JUDGMENT made in
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