



C.M.A.(MD)No.207 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.12.2023

PRONOUNCED ON : 11.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.207 of 2015

and

M.P.(MD)No.1 of 2015

The Manager,
United India Insurance Company
Limited, Salem.

... Appellant / 2nd Respondent

Vs.

1.Sampath

... 1st Respondent / Petitioner

2.K.Ramasamy

... 2nd Respondent / 1st Respondent

2.The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Salem.

... 3rd Respondent / 3rd Respondent

(R2 exparte in Tribunal : Notice dispensed with)



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PRAYER: Civil Miscellaneous Appeal filed under Order 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 12.08.2014 passed in M.C.O.P.No.323 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani.

For Appellant : Mr.J.S.Murali
For R-1 : Mr.R.Jegadeeswaran
For R-3 : Mr.K.Sudalayandi
For R-2 : Exparte

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and decree dated 12.08.2014 passed in M.C.O.P.No.323 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani, by the appellant / Insurance Company challenging the liability as well as the quantum of the award passed by the Tribunal.

2. For the sake of convenience, the parties are referred herein as per their rank before the Trial Court.



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3. The brief facts in a nutshell are as follows:

(i) This is a case of injury. On 01.10.1998 at about 6.15 P.M., while the petitioner along with other co-passengers were travelling in the Rama Vilas bus bearing registration No. TN.27 T 5889 belonging to the 2nd respondent from Salem to Namakkal NH-7, Main road, near Santhiyur pirivu road, it dashed against another vehicle bearing registration No. TN-27-0679 which came from the opposite direction towards Salem. As a result of which, the petitioner and many others were seriously injured and four persons died on the spot. Due to the injuries sustained by the petitioner, he was immediately taken to the Government Hospital, Salem for first aid and then he was taken to R.P.S. Private Hospital for further treatment. In the said accident, the petitioner sustained fractures on his right hand, right leg, fractures on two knees and multiple injuries all over the body. Hence, the petitioner / claimant has filed a M.C.O.P.No.323 of 2000 seeking compensation for the said injuries sustained by the petitioner before the Motor Accident Claims Tribunal, Subordinate Court, Palani.



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(ii) Four issues were framed by the learned Tribunal. Following which four witnesses were examined and Ex.P-1 to Ex.P-18 were marked on the side of the petitioner. One witness was examined and no document was marked on the side of the respondents.

(iii) The 2nd respondent had filed a counter refuting the allegations put forth in the claim petition. The 1st respondent remained exparte before the Tribunal. On the basis of the oral and documentary evidence and the arguments submitted by the respective parties before the Tribunal, the learned Tribunal had proceeded to conclude that the accident had occurred only due to the rash and negligence of the driver of the 3rd respondent's bus. However, the driver of the 1st respondent's bus could have avoided the said accident, if he had been a little careful. Hence, the learned Tribunal had concluded by fixing 25% negligence on behalf of the driver of the 1st respondent and 75% negligence on behalf of the driver of the 3rd respondent.



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(iv) On the basis of the partial permanent disability certificate issued by one Dr.V.Shanmuga Raja who was examined as P.W-4 and the partial permanent disability certificate which was marked as Ex.P-17, the partial permanent disability was fixed at 30% and the learned Tribunal has awarded Rs.2,000/- (Rupees Two Thousand only) per percentage for partial permanent disability. Hence, the learned Tribunal had proceeded to conclude that the petitioner was entitled to get an amount of Rs.1,23,109/- (Rupees One Lakh Twenty Three Thousand One Hundred and Nine only) as compensation for the injuries sustained in the said accident. The details of the compensation awarded by the learned Tribunal are as follows:

S.No.	Description	Amount
1.	30% Partial Permanent disability	Rs. 60,000/-
2.	Pain and Sufferings	Rs. 20,000/-
3.	Medical Expenses	Rs. 36,109/-
4.	Transport Expenses	Rs. 2,000/-
5.	Nutrition Expenses	Rs. 5,000/-
	Total	Rs.1,23,109/-

Aggrieved by that award, the appellant Insurance Company / 2nd respondent has filed the present appeal.



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4. The learned counsel for the appellant/ Insurance Company has submitted that the Tribunal is wrong in fixing the liability and negligence. Therefore, the Insurance Company is not liable to pay any compensation to the claimant. It is further contended that the compensation awarded by the Tribunal is excessive, exorbitant and without any basis and justification. Hence the order passed by the Tribunal is not in accordance with law and the same should be set aside.

5. The learned counsel for the 1st respondent claimant has submitted that the Tribunal had considered all the materials and evidence available on record and awarded the compensation which is just, fair and reasonable. Hence the order passed by the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard the learned counsel for the appellant and the learned Counsel for the respondents and perused the materials available on record.



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On the side of the claimant, four witnesses were examined and Ex.P-1 to Ex.P-18 were marked and one witness was examined and no document was marked on the side of the respondents.

7. A careful perusal of the entire award, it is clear that the Tribunal has rightly assessed the oral and documentary evidence and arrived at a just and reasonable compensation. In view of the same, this Court is of the considered view that it is not necessary to interfere with the award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

8. The appellant is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.323 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palani within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw



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the said amount, less the amount, if any already withdrawn, by making
necessary application before the Tribunal. No costs.

11.01.2024

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

The Motor Accident Claims Tribunal,
Subordinate Court,
Palani.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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