



C.M.A.(MD)No.338 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A.(MD)No.338 of 2017

Iyyappan

... Appellant / Petitioner

Vs.

1.Ramasamy

2.The Branch Manager,
New India Assurance Co. Ltd.,
Door No.82, New Dharapuram Road,
Palani Taluk,
Dindigul District.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, to set aside the award passed in M.A.C.O.P.No.291 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Dindigul dated 01.03.2014.

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

For R-1 : No appearance

For R-2 : M/s.M.Sudharani,
For M/s.Vijayakumari Natarajan



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JUDGMENT

The present Civil Miscellaneous Appeal has been filed by the claimant in M.A.C.O.P.No.291 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Dindigul, challenging the exoneration of the Insurance Company and enhance the quantum of the award.

2. According to the insured claimant, he was working as a agricultural coolie and earning a sum of Rs.6,000/- (Rupees Six Thousand only) per month and he had sustained grievous injuries in view of the accident that has taken place on 06.09.2009. According to the claimant, while he was walking in the road, a Tata Ace Van owned by the 1st respondent and insured with the 2nd respondent was driven in a rash and negligent manner and dashed against him and due to the said impact, he had sustained grievous injuries. Hence, he had prayed for a compensation of Rs.3,00,000/- (Rupees Three Lakhs only).



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3. The Insurance Company has filed a counter contending that the accident had happened only due to the carelessness and negligence on the part of the claimant. They have also disputed the driving license of the driver of the 1st respondent. They have further contended that there was no insurance policy for the vehicle at the relevant point of time. They have questioned with the quantum of compensation also.

4. After considering the oral and documentary evidence, the Tribunal had arrived at a conclusion that the accident has taken place only due to the rash and negligence on the part of the driver of the 1st respondent.

5. The Tribunal had relied upon Ex.R-2 insurance policy and proceeded to hold that the policy had expired on 16.07.2009 and the accident having taken place on 06.09.2009. The Insurance Company has not liable to pay the compensation. The Tribunal proceeded to fix the liability upon the owner of the offending vehicle.



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6. The Tribunal has fixed a total compensation of Rs.72,260/-
(Rupees Seventy Two Thousand Two Hundred and Sixty only).

Challenging the said award, the present Civil Miscellaneous Appeal has been filed.

7. Pending appeal, the learned counsel appearing for the Appellant had produced the Insurance Policy for the vehicle which covered the period between 17.07.2009 to 16.07.2013 for the offending vehicle. The said document was not produced before the Tribunal. Time was granted to the learned counsel appearing for the Insurance Company to verify the genuineness of the said document. After verification the learned counsel appearing for the Insurance Company admitted the genuineness of the said document. Therefore, this Court proceeds to hold that the vehicle was insured with the package policy on the date of the accident. The award of the Tribunal in exonerating the Insurance Company is hereby set aside.

8. As far as the quantum is concerned, the Tribunal has fixed Rs.



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2,000/- (Rupees Two Thousand only) for percentage of injury, Rs.

5,000/- (Rupees Five Thousand only) towards Pain and Sufferings, Rs.

3,000/- (Rupees Three Thousand only) towards Transport Expenses and

Rs.3,000/- (Rupees Three Thousand only) towards attendant charges.

The Tribunal has allowed the medical bills and Rs.2260/- (Rupees Two Thousand Two Hundred and Sixty only) towards medical expenses. In such circumstances, this Court does not find any reason to enhance the award.

9. In view of the above said facts, the award of the Tribunal is modified as follows:

a) The 1st and 2nd respondents in the claim petition are jointly and severally liable to pay the compensation of Rs.72,260/- (Rupees Seventy Two Thousand Two Hundred and Sixty only) as compensation along with interest at the rate of 7.5% from the date of the claim petition.

b) The award amount shall be deposited within a period of eight



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(8) weeks from the date of receipt of a copy of this order.

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c) On such deposit, the claimant shall be entitled to withdraw the said amount by filing appropriate application before the Tribunal.

10. The rest of the portion of the award of the Tribunal stands confirmed. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No costs.

26.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate),
Dindigul.

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

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R.VIJAYAKUMAR, J.

Sml

Judgment made in
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