



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2016

Coram:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.146 of 2015

Kannan

.. Appellant/Petitioner

Vs.

1.The Proprietor

M/s.K.S.S. Bus Transport Firm,
488/3, V.O.C. Road,
Karaikudi Town,
Sivagangai District.

2.The Branch Manager,

National Insurance Company,
2nd Floor, 331/1, Checkalai Road,
Karaikudi Town,
Sivagangai District.

.. Respondents/Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.08.2012 made in M.C.O.P.No.109 of 2009, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Devakottai.

For Appellant : Mr.S.Siva Thilakar
For Respondents : Mr.A.S.Mathialagan (for R2)
No Appearance (For R1)

JUDGMENT

The appellant has filed the present C.M.A(MD)No.146 of 2015, challenging the award passed in MCOP.No.109 of 2009, dated 06.08.2012, on the file of the Motor Accidents Claims Tribunal, Devakottai.

2.It is a case of an injury caused on account of an accident occurred on 23.07.2009 near Thiruthuraipoondi-Nagapattinam Main Road. The injured victim filed an application seeking compensation before the Tribunal. Considering the facts and circumstances of the case, the Tribunal awarded Rs.6,04,277/- as total compensation. Having not satisfied with the quantum of compensation, the appellant/claimant has filed this appeal seeking



enhancement. The enhancement is sought for mainly on the ground that he sustained grievous injury including fracture, resulting permanent disability and he require more compensation to meet out the future medical expenses.

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3. Though the appellant/claimant says that he requires more medical expenses for future treatment, he has not produced any Doctor certificate or elicited evidence to that effect before the Tribunal. In the absence of any document and in the absence of any medical examination and Doctor evidence, this Court cannot consider the same for enhancing the compensation, since the Tribunal itself granted Rs.1,00,000/- towards future medical expenses. In view of the fact that the Tribunal is already granted Rs.1,00,000/- for future medical expenses, this Court is not inclined to enhance the same further.

4. The learned counsel appearing for the respondent/Insurance Company opposed the appeal by saying that the Tribunal itself considered all these aspects and even in the absence of Doctor evidence, the Tribunal granted Rs.1,00,000/- and therefore, no re-consideration is required. This Court, under the facts and the circumstances of the case, is not inclined to enhance the compensation and accordingly the award passed by the Tribunal in MCOP.No.109 of 2009 dated 06.08.2012, is confirmed and the Civil Miscellaneous Appeal is dismissed.

5. The respondent/Insurance Company is directed to deposit the entire award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. The appellant/claimant is permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal. No costs.

Sd/-
Deputy Registrar(J)

/True Copy/

Sub-Assistant Registrar

To

The Subordinate Judge,
The Motor Accidents Claims Tribunal, Devakottai.
+One cc to M/s.S.Sivathilakar, Advocate, SR.No.74685

vsa