

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1169 of 2017

N. Dhamodaran

..Appellant/Claimant

Vs.

1. R. Saroja
(Set ex parte in Tribunal)

2. The Divisional Manager,
IFFCO TOKIO General
Insurance Co. Ltd.,
No.128, 5th Floor,
Habibullah Road,
T. Nagar,
Chennai - 600 017.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the award and decree dated 20.12.2016 in M.C.O.P. No. 1498 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Cuddalore.

For Appellant :: Ms.T. Anusuya for
Mr.R. Sreedhar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant as against the award of Rs.1,62,361/-, passed in the claim petition filed by him, for the injuries sustained in the accident, which occurred on 30.03.2014, when he was hit by a motor cycle, driven by the 1st respondent and insured with the 2nd respondent Insurance Company, while walking on the road.

2. The Tribunal, on appreciation of oral and documentary evidence, found that the accident had occurred due to the rash and negligent driving of the motor vehicle and taking into consideration 33% disability sustained by the claimant, as proved by medical records, marked as Ex-P2 to P21 & P-27, awarded a sum of Rs.99,000/- @ Rs.3000/- per percentage of disability. What is evident is that no expert witness, namely, Doctor, was examined, to prove the disability. In any event, the Tribunal, based on the medical records, has determined the

percentage of disability at 33% and awarded the aforesaid amount, which is justified. As far as the amounts awarded under the other heads are concerned, namely, Rs.21,361/- towards "Medical Expenses", based on medical bills, Rs.25,000/- towards "Pain, Suffering and shock", Rs. 10,000/- towards "Transport Expenses", Rs.5000/- towards "Extra Nourishment" and Rs.2000/- towards "Loss of Articles" are reasonable and are hereby confirmed. Hence, the award of the Tribunal, to the tune of Rs.1,62,361/-, together with interest @ 7.5% per annum, is just and reasonable and warrants no interference. The Civil Miscellaneous Appeal fails and the same is dismissed.

3. The 2nd respondent Insurance Company is directed to deposit the entire award amount, before the Tribunal, if not already deposited, with interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made or if the amount is already lying to the credit of the claim petition, the Tribunal shall pay the amount directly to the appellant/claimant, through RTGS, within a period of one week thereafter.

4. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
(Special Sub Court), Cuddalore.

Copy to

The Section Officer

VR Section

High Court, Madras

+1 Cc to Mr.R. Sreedhar, Advocate sr 20322

C.M.A. No. 1169 of 2017

SSI(CO)

sp/11/5