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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.09.2018

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CMA.No.2143 of 2007

Immanuel Doss

...Appellant/ Petitioner

Vs

1.G.Jerome Arokiaraj

2.United India Insurance Co.Ltd.,
South India Co-operative Buildings,
No.38, Anna Salai, III Floor,
Chennai -2.

...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.08.2006 made in M.C.O.P.No.4339 of 2005 on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellant : Mr.G.Jaisivaramaraj
For Respondents : Mr.E.Rajadurai
for R.Sree Vidhya [for R2]

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants against the judgment and decree dated 11.08.2006 passed in M.C.O.P.No.4339 of 2005 on the file of the Motor Accidents Claims Tribunal, V Judge, Small Causes Court, Chennai.

2. The brief facts of the claim petition is as follows:

On 20.06.2004 at about 22.30 hours, while the Petitioner was travelling as a pillion rider in his motorcycle TN-07-J-9686, a water tanker Lorry bearing Reg.No.TN-45-Q-3987 driven in a rash and negligent manner came on the wrong side of the road and dashed against the motor cycle and thus caused grievous injuries to the Petitioner/Appellant.

3. On hearing both sides, the Tribunal has awarded a sum of Rs.36,500/- by taking the disability at 20% as against the document which reveals 40% and awarded Rs.20,000/- towards disability; and awarded a sum of Rs.10,000/- for pain and



suffering and Rs.4,500/- for loss of income and also awarded a sum of Rs.10,000/- each under the head Transportation and Extra Nourishment.

4. On the side of the appellant, it is argued that the injuries sustained by the claimant was treated by incurring medical expenses but that has not been considered by the Tribunal. Further argument raised by the appellant is that the Tribunal has not considered the occupation of the petitioner, who inspite of the treatment is still suffering some disability to breathe and work as before.

5. Taking into consideration of the argument advanced by the appellant/claimant and also the 2nd respondent/Insurance Company and on a perusal of the records, it is seen that the claimant has sustained head injury, for which he was treated and the disability has also been proved before the Tribunal as 40%, but it was taken as 20% by the Tribunal. At the same time, it is observed that the sum awarded under Pain and Suffering is Rs.10,000/- which is considered to be just and proper.

6. Taking note of the nature of injury sustained by the claimant and the compensation amounts granted by the Tribunal under other heads and that no sum has been awarded for medical expenses that actually the claimant would have met for the treatment then, which aspect has to be considered now. Further, very meagre amount has been awarded under the heads "Transport charges", "Extra nourishment" and no amount is awarded under the head "Damages". Hence, this court is of the view that considering the attendant circumstances such as, the occupation of the claimant, nature of injury and the disability he sustained and his continuous suffering even after the treatment, some amount has to be awarded under the above said heads. Accordingly, with the following modifications, the sum awarded by the tribunal is enhanced as follows:-

Sl.No	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Transportation	1000.00	2000.00
2.	Extra nourishment	1000.00	2000.00
3.	Loss of income	4,500.00	4,500.00
4.	Pain and suffering	10,000.00	20,000.00
5.	Disability	20,000.00	20,000.00
6.	Medical expenses	---	5,000.00
7.	Damages to clothes	---	1,000.00
	Total	36,500.00	54,500.00



7. In the result, the Civil Miscellaneous Appeal is Partly Allowed. The Quantum of compensation awarded by the Tribunal at Rs.36,500/- is enhanced to R.54,500/-. The interest granted by the Tribunal at 7.5% p.a., is confirmed. Accordingly, the 2nd respondent/Insurance company is directed to deposit the entire award amount as per the modified award passed by this Court, with interest and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount to the claimant to his bank account through RTGS within one week thereon. No costs.

Sd/-

Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
V Judge, Small Causes Court,
Chennai.

2 The Section Officer,
V.R.Section, High Court, Madras

+1cc to Mr.UM.Ravichandran , Advocate SR.No.65780

C.M.A.No.2143 of 2007

ASK(28/11/2018)