



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CMA(MD).No.851 of 2018

Lakshmanan : Appellant / claimant

Vs.

1.Sudalaimani
2.Royal Sundaram Alliance Insurance Company Limited,
through its Branch Manager,
TVS Co-operative Stores Building,
No.37, Krishna Rao Tank Street,
Madurai. : Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree, dated 20.,09.2013, made in MCOP.No.243 of 2013, on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thirunelveli.

For Appellant : Mr.T. Selvakumaran

For R2 : Mr.M.E. Ilango

JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation against the Award, dated 20.,09.2013, made in MCOP.No.243 of 2013, on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thirunelveli.

2. By the consent of both sides, this Civil Miscellaneous Appeal is taken up for disposal in the admission stage itself.

3. The appellant is the claimant in MCOP.No.243 of 2013, on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thirunelveli. He has filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation, for the injuries sustained by him in the accident, that occurred on 24.05.2010.

<https://hcservices.ecourts.gov.in/hcservices/> 4. The Tribunal considering the pleadings oral and documentary evidence let in by the parties held that accident



occurred only due to rash and negligent driving by driver of the first respondent and considering the evidence of PW.1 and PW.2 awarded a sum of Rs. 4,42,000/- as compensation under various heads.

5. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal for enhancement of compensation.

6. The learned counsel appearing for the appellant contended that the Tribunal ought to have adopted multiplier method by treating 30% of disability as 100% as the appellant is working as a Coolie in quarry and the amounts awarded under the other heads are too meagre.

7. Per contra, learned counsel appearing for the second respondent / Insurance Company contended that based on the evidence let in by the appellant as PW.1 and PW.2 - Doctor and Disability Certificate marked as Ex.P11, Tribunal has awarded compensation. The appellant has not established that he is entitled to compensation by applying multiplier method. Further, the amounts awarded under the various heads are not meagre and prayed for dismissal of the appeal.

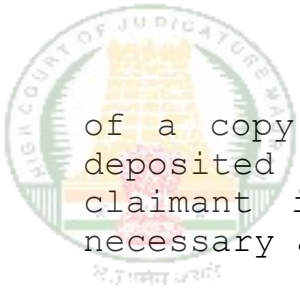
8. I have heard the learned counsel appearing for the appellant and the second respondent and perused the materials available on record.

9. The learned counsel appearing for the appellant submitted that the Tribunal ought to have applied multiplier method by treating 30% of the disability as 100% is without merits. The Doctor has not deposed that the appellant cannot do any work and that he is totally immobilised. The appellant as PW.1 in cross examination has admitted that after accident he is working in quarry.

10. For the above reason, the amount awarded by the Tribunal towards disability need not be enhanced. Tribunal considering the fact that appellant took treatment from 24.05.2010 to 26.06.2010 has awarded compensation and the amounts awarded by the Tribunal under different heads are just compensation and there is no reason to enhance the same.

11. In the result, this Civil Miscellaneous Appeal is dismissed, by confirming the award dated 20.09.2013, made in MCOP.No.243 of 2013, on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Thirunelveli. No costs.

<https://hcservices.ecourts.gov.in/hcservices/> The second respondent / Insurance Company is directed to deposit the amount awarded by the Tribunal together with interest, within a period six weeks from the date of receipt



of a copy of this Judgment, after deducting the amount already deposited if any. On such deposit, the first respondent / claimant is permitted to withdraw the said amount, on filing necessary application before the Tribunal concerned.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Motor Accidents Claims Tribunal / Special Sub Court, Thirunelveli.

2. The Section Officer, VR Section, (2 copies)
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.M.E.Ilango , Advocate SR.No.91970

+1 cc to Mr.T.Selvakumaran , Advocate SR.No.92313

trp

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