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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.460 of 2007

Jagadeesh @ Satheesh Kumar

.... Appellant

Vs.

1.N.Mohammed Farook

2.The United India Insurance Company Ltd.,

5, Big Bazaar Street,

Dharapuram - 638 656.

.... Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 23.06.2006 made in MCOP No.121 of 2005 on the file of the Motor Accident Claims Tribunal, (II Additional Sub Court), Erode.

For Appellants : Mr.K.Govi Ganesan

For R-2 : Mr.J.Chandran

J U D G M E N T

This appeal is directed against the judgment and decree made in MCOP No.121 of 2005, dated 23.06.2006 on the file of the Motor Accident Claims Tribunal, II Additional Sub Court, Erode.

2.One Jagadeesh @ Satheesh Kumar, aged 23, Manager, earning a sum of Rs.3,000/- per month, met with an accident on 07.07.2004, at about 6.15 p.m. when he was riding a TVS 50 moped bearing Registration No.TN-28-U-7455. While he was riding the said vehicle in Erode to Vellore road, in front of one Nellai Stores, a Mini-door Auto bearing Registration No.TN-59-D-9016, which was driven by its driver in a rash and negligent manner, dashed against the claimant/appellant. Due to the said impact, he sustained grievous injuries, for which, he has taken treatment at Government Hospital, Erode, L.K.M. Hospital, Erode and other private hospitals.

3. Claiming that the accident had happened only due to the rash and negligent driving of the Auto by its driver, the claimant has filed the claim petition claiming compensation of Rs.1,50,000/-.



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4. Heard both sides.

5. The learned counsel for the claimant/appellant submitted that the amount awarded under each and every head is very meager and they need significant enhancement.

6. Per contra, the learned counsel for the second respondent/Insurance Company submitted that the compensation claimed and awarded are exorbitant. He further submitted that the Tribunal has awarded interest at the rate of 7.5% per annum, which is also on the higher side.

7. Admittedly, there is no dispute with regard to the negligence fixed on the driver of the Auto and the liability of the second respondent / Insurance Company to pay compensation to the appellant/claimant. With regard to quantum of compensation, the Tribunal has analysed the wound certificate of the claimant/appellant, wherein, the following injuries are found:-

- "1. Contusion with deformity right thigh-
communited fracture shaft of right femur.
2. Abrasion left fore arm
3. Abrasion right fore arm
4. Abrasion left hand
5. Abrasion left side of chest
6. Abrasion left ankle
7. Lacerated injury right knee
8. Lacerated injury right ankle
9. Lacerated injury right foot
10. Abrasion right leg
11. Contusion with abrasion forehead."

8. It is inevitable that with the above injuries/discomforts, the appellant/claimant has to lead his rest of the life. Further, the Doctor has assessed the disability at 22%. For the said percentage, the Tribunal has awarded only a meager sum of Rs.59,100/- as compensation, which in the considered view of this Court, needs enhancement, of course, significantly. Hence, this Court is of the opinion that a sum of Rs.25,000/- in addition to the award passed by the Tribunal, would meet the ends of justice.

9. The re-structured break up details of the award of compensation run thus:-

Medical Expenses	-	Rs.28,115/-
Transportation and extra nourishment	-	Rs. 6,000/-
Loss of future earnings on account of permanent disability	-	Rs.20,000/-
Pain and suffering	-	Rs.15,000/-



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Loss of amenities/prospects of marriage	-	Rs.15,000/-

Total	-	Rs.84,115/-

(Rounded off)	-	Rs.84,100/-

10. In the result, the Civil Miscellaneous Appeal is partly-allowed, by enhancing the amount of compensation from Rs.59,100/- to Rs.84,100/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit less the amount already deposited if any, within a period four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the said amount to the Savings Bank Account of the appellant/claimant herein, within one week thereafter, through RTGS. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

kv / srk

To

1.The Motor Accident Claims Tribunal,
(II Additional Sub Court), Erode.

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

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.56227

+1cc to Mr.J.Chandran, Advocate SR.No.55769

C.M.A.No.460 of 2007

KS (CO)
GMY (26/11/2019)