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IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 27.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1105 of 2010
and C.M.P.No.15193 of 2005

Gnansekaran

... Appellant

Versus

1. Senthil Kumar

2. The Oriental Insurance Company Ltd.,
No.1, Katpadi Road, Vellore,
Vellore District.

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.07.2004 in M.C.O.P.No.737 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Judge, FTC, Vellore at Vellore, Vellore District.

For Appellant :Mr.E. Kannadasan

For Respondent-2 :Mr.K.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the Judgment and Decree dated 30.07.2004 made in M.C.O.P.No.737 of 2002 on the file of the Motor Accident Claims Tribunal at Vellore, Vellore District.

2. The facts of the case are that on 30.08.2002 at 12.10 p.m, when the appellant herein was proceeding in his two wheeler bearing Registration No.TN-23-X-9721 from Vellore to Sathuvachari, a auto bearing Registration No.TN-23-F-2426 belonging to the first respondent came in the opposite direction in a rash and negligent manner and dashed the appellant. In the result the appellant sustained grievous injuries hence, he filed M.C.O.P.No.737 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court, Vellore, claiming a sum of Rs.3,00,000/- as compensation. The Claims Tribunal, on a consideration of oral and documentary



evidence, awarded a sum of Rs.90,000/- payable with interest at the rate of 9% per annum from the date of filing petition to till the date of decree.

3. Challenging the liability fixed on the part of the appellant, he has approached this Court by way of filing this Civil Miscellaneous Appeal.

4. The learned counsel for the appellant states that the appellant is not responsible for the accident and the accident occurred due to the negligent attitude of the auto driver only.

4. Heard both sides and perused the materials available on record.

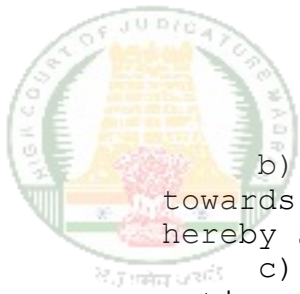
5. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has not awarded a just and fair compensation, which need interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, needs to be modified.

6. Thus, considering the facts and circumstances of the case, this Court finds that the amount awarded by the Tribunal needs to be enhanced. The award amount is enhanced to Rs.1,00,000/- from 90,000/- under the following heads.

S.No	Particulars	Amount granted by the Tribunal	Amount awarded by this Court
1	Pain and suffering	Rs.10,000/-	Rs.10,000/-
2	Towards the Transportation Extra Nourishment and attendant charges etc.,	Rs.10,000/-	Rs.15,000/-
3	Towards the disability	Rs.15,000/-	Rs.20,000/-
4	Towards the loss of earnings	Rs.10,000/-	Rs.10,000/-
5.	Loss of earning power	Rs.15,000/-	Rs.15,000/-
6.	Towards the medical Bills	Rs.30,000/-	Rs.30,000/-
	Total	Rs.9,0000/-	Rs.1,00,000

6. In the result,

a) this Civil Miscellaneous Appeal is partly allowed



b) in respect of 30% amount deducted by the Tribunal towards contributory negligence on the part of the appellant is hereby set aside.

c) the respondents are hereby directed to deposit the entire award amount with 7.5% interest, less the amount if any, already deposited.

(c) After making such deposit the claimant is directed to withdraw the amount by way of filing appropriate application before the Tribunal. The appellant shall forego interest for the delay period of 264 days.

(d) No order as to costs.

(e) Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

smn

To
The Motor Accidents Claims Tribunal /
Additional District and Sessions Judge,
Vellore, Vellore District.

+1cc to Mr.E. Kannadasan, Advocate SR.No.18696

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.18398

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RR(CO)
GMY(17/09/2019)