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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1917 of 2012

M.S. Shankaran

.... Appellant/Petitioner

Vs.

1. R. Kanda Subramaniam
VPR Gas Service,
136, R.S. Road,
Perundurai, Erode Dist.
(First Respondent was set-Ex-parte
before the Trial Court and Died)

2. IFFCO TOKIO General Insurance Co. Ltd.
Sahes Embassy, No.145/131,
Ground Floor, Nelson Manickam Road,
Mehta Nagar, Chennai - 600 029.

....Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.A.C.T.O.P.No.3919 of 2006 dated 18.09.2009 on the file of the Motor Accidents Claims Tribunal, (Vth Court of Small Causes, Chennai.)

For Appellant : Mr.K.V. Muthu Visakan
For Respondent-2 : Mr. N. Vijayaraghavan

J U D G M E N T

The Civil Miscellaneous Appeal arises out of the Judgment and Decree dated 18.09.2009 made in M.A.C.T.O.P.No.3919 of 2006 on the file of the Motor Accidents Claims Tribunal, (Vth Court of Small Causes, Chennai.) (for brevity, "the Tribunal").

2. The claimant is the appellant herein who has filed the appeal seeking for enhancement of compensation. The factum and manner of the accident took place on account of rash and negligence on the part of the driver of the first respondent's vehicle is not in dispute.



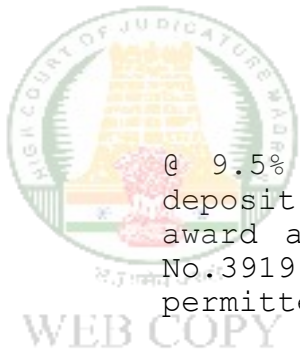
4. During the trial in the Tribunal, as P.W.1, the injured/claimant and as P.W.2, Doctor, who has assessed the disability of the appellant/claimant at 45% were examined and Disability Certificate issued by the Doctor, P.W2 has been marked under Ex.P.9. The Tribunal has held that disability to the appellant/claimant at 45% and awarded Rs.45,000/- for the same.

5. Ex.P.2, Discharge summary, Ex.P.3, Medical Bills, Ex.P.4, Plate removal estimation issued by Sri Devi Speciality Hospital, Ex.P5, Salary certificate issued by M/s.Nostrum Pharmaceuticals have been perused and heard both sides.

6. Taking into consideration of the evidence of the P.W.2, Doctor, and Ex.P9 disability certificate issued by Doctor, the disability at 45% is hereby confirmed by fixing Rs.1500/- per percentage towards compensation of disability to the appellant/injured. i.e. Rs.1,500/- X 45= 67,500/-.

7. On perusal of the record and award passed by the Tribunal, I am of the considered view that the appellant/claimant is entitled to the compensation figured out in the following table under different heads:

Thus, the compensation awarded by the Tribunal has been enhanced by Rs.47,500/- from Rs.1,33,000/- to Rs.1,80,500/- with interest



@ 9.5% per annum from the date of petition till the date of deposit and the Insurance Company is directed to deposit the award amount enhanced by this Court to the credit of M.C.O.P. No.3919 of 2006 and on such deposit, the appellant/claimant is permitted to withdraw the same along with the interest.

8. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is modified. There shall be no order as to costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

lbm

To:

1. The Motor Accidents Claims Tribunal,
(Vth Court of Small Causes, Chennai)

Copy to

The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.N. Vijayaraghavan, Advocate sr 40121

+1 CC to Mr.K.V. Muthukrishnan, advocate sr 39579.

C.M.A.No.1917 of 2012

RK(CO)
SP(25/09/2019)