

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.467 of 2015

Marichetty

... Appellant

Vs.

1.Guru Ragavendra Textiles,
23, 5th Pulikuthi Street,
Gugai,
Salem - 636 006.

2.M/s.United India Insurance Co., Ltd.,
Oriental Complex,
77, A.A.Street,
Salem - 636 001.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 06.03.2013 made in M.C.O.P.No.230 of 2011 on the file of Motor Accident Claims Tribunal, II Additional Sub Court, Salem.

For Appellant : No appearance

For R2 : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 06.03.2013 made in M.C.O.P.No.230 of 2011 on the file of Motor Accident Claims Tribunal, II Additional Sub Court, Salem.

2.The appellant herein has filed M.C.O.P.No.230 of 2011 on the file of Motor Accident Claims Tribunal, II Additional Sub Court, Salem. He 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 took place on 27.06.2008. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Mahendra van belonging to the 1st respondent

and directed the 2nd respondent/Insurance Company to pay a sum of Rs.5,00,097/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

3.In the grounds of appeal the appellant has contended that the Tribunal without appreciating the evidence of P.W.1 and P.W.2 with regard to the injuries sustained by the appellant, erred in reducing the disability of the appellant at 50%. The Tribunal has not awarded any sum under the heads of loss of amenities and partial loss of earning. The sum awarded by the Tribunal under the heads of disability, loss of earning power and medical expenses are meagre and prayed for enhancement of compensation.

4.Despite ordering notice on the respondents and their names are printed in the cause list and there is no representation on behalf of them. Hence considering paucity of time, this appeal is taken up for final disposal.

5.From the materials available on record, it is seen that P.W.2-Doctor assessed the disability of the appellant at 70%. He further deposed that due to the injury, the appellant is suffering from head ache, giddiness, loss of memory etc. According to the appellant he was admitted as in-patient in the hospital from 27.06.2008 to 07.08.2008. The Tribunal reduced the disability assessed by PW2 Doctor from 70% to 50%, on the ground that PW2/Doctor is not the Doctor who treated the appellant. The Tribunal has awarded a sum of Rs.1,00,000/- towards disability by taking Rs.2,000/- per percentage of the disability, which is reasonable. With regard to the other grounds raised in the appeal, the Tribunal has not awarded any amount towards partial loss of earning, it is seen from the records that the appellant has not produced any documents to substantiate his claim, hence the compensation under the said head cannot be considered. Further, the sum awarded by the Tribunal as compensation under other heads are also proper and reasonable and does not require any modification. Therefore, this Court is of the view that the appellant/claimant is not entitled for enhancement of compensation.

6.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.5,00,097/- awarded by the Tribunal as compensation to the appellant/claimant, along with interest and costs is confirmed. No costs.

7.The 2nd respondent/Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks

from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.230 of 2011. On such deposit, the appellant/claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl

To

1.The II Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Salem.

2.The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.467 of 2015

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srg 16/04/2020

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