



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.16 of 2018

A.Yakop

... Appellant /Petitioner

Vs.

1.J.Sundaram
(was set exparte in the Trial Court)

2.ICICI Lombard GI Insu. Co.
Chotabhai Towers,
No.140, Nungambakkam High Road,
Chennai - 600 006.

Now functioning at
ICICI Lombard GI. Insurance Co. Ltd.,
Harihant Plaza, 1st Floor,
No.83/84, Walltax Road,
Chennai - 600 003

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.03.2016 made in M.C.O.P.No.1989 of 2014 on the file of Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai.

For Appellant	:	Ms.P.T.Salim Fathima
For R2	:	Ms.R.Sreevidhya

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 31.03.2016 made in M.C.O.P.No.1989 of 2014 on the file of Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai.

2.By consent of both the learned counsel for the appellant and 2nd respondent, the appeal is taken up for final disposal at



the stage of admission itself.

3.The appellant filed M.C.O.P.No.1989 of 2014 on the file of Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai. claiming a sum of Rs.9,00,000/- as compensation for the injuries sustained by him in the accident that took place on 01.03.2014. 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 van belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said van to pay a sum of Rs.1,65,000/- as compensation to the appellant. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant contended that the Tribunal having fixed negligence on the part of the 1st respondent, has awarded lesser amount towards loss of earning during treatment period, transportation, extra nourishment, miscellaneous expenses, loss of amenities, pain & suffering and loss of continuing permanent disability. The appellant was immobilized for about two months. The Tribunal has not awarded any amount under the head of attendant charges and prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that though the appellant has produced Ex.P4 - medical bills to the tune of Rs.4,297.30, the Tribunal has awarded excessive amount of Rs.10,000/- towards medical expenses. The Tribunal considering the fact that the appellant has taken treatment only as out-patient, rightly not awarded any amount under the head of attendant charges. The Tribunal after considering all the materials available on record in proper perspective, has awarded compensation, which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellant as well as 2nd respondent-Insurance Company and perused all the materials on record.

7.From the materials available on record, it is seen that P.W.2-Doctor in his evidence has deposed that the appellant sustained grievous injuries and certified that appellant suffered 20% partial permanent disability. The Tribunal has fixed the disability of the appellant at 20% and awarded a sum of Rs.60,000/- (Rs.3,000/- X 20%) towards disability by awarding Rs.3,000/- per percentage of disability. In addition to that, the Tribunal has awarded a sum of Rs.30,000/- towards loss of



earning during treatment period for three months. The appellant has not proved that he has taken treatment in the hospital as in-patient by producing discharge summary. The Tribunal rightly considering the same, has not awarded any amount under the head of attendant charges. The Tribunal after considering the age, avocation and nature of injuries sustained by the appellant, has awarded compensation under different heads, which are not meagre warranting interference by this Court.

8. In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.1,65,000/- awarded by the Tribunal as compensation to the appellant/claimant, along with interest and costs is confirmed. 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.1989 of 2014. 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. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The II Judge,
Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai.

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

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 20148

C.M.A.No.16 of 2018

LN(CO)
GN(26/11/2019)