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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.527 of 2018

P.Gopi ... Appellant/Petitioner

Vs.

1.L.Murugan

2.New India Assurance Co. Ltd.,
No.372, T.T.K. Road, Alwarpet,
Chennai 600 018.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 18.01.2012, made in M.C.O.P.No.2796 of 2007, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R2 : Mr.R.Neethi Perumal

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of the compensation granted by the Tribunal in the award dated 18.01.2012, made in M.C.O.P.No.2796 of 2007, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P.No.2796 of 2007, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 13.06.2007.

3.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 lorry belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.5,74,300/- as compensation to the appellant.



३.५ प्रत्येक पंक्ति में

6. Per contra, Mr. R. Neethi Perumal, learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the evidence of P.W.2-Doctor, reduced the percentage of disability from 65% to 60% on the ground that the percentage of disability may vary from one Doctor to another. The amounts granted by the Tribunal under different heads are not meagre and the appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

8. From the award of the Tribunal, it is seen that the appellant sustained grievous injuries all over the body and has taken treatment as inpatient in Parvathy Ortho Hospital from 13.06.2007 to 24.07.2007 and underwent surgeries on 13.06.2007, 19.06.2007, 07.07.2007, 17.07.2007 and 21.07.2007. The Tribunal without considering the evidence of P.W.2-Doctor who assessed 65% partial and permanent disability suffered by the appellant, fixed the functional disability at 20%. The same is erroneous and hence, the disability suffered by the appellant is fixed at 65% and the appellant is entitled to a sum of Rs.1,20,000/- towards disability, at the rate of Rs.2,000/- per percentage for 60%. The Tribunal has granted a meagre sum towards extra nourishment. Hence, the same is enhanced to Rs.20,000/-. The Tribunal failed to grant any amount towards attender charges, loss of amenities and future medical expenses. A sum of Rs.20,000/- each is granted towards the said heads. The amounts granted by the Tribunal under other heads are just and



such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary applications before the Tribunal. No costs. However, it is made clear that the appellant is not entitled for any interest for the delay period on the amount enhanced by this Court.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

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

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

+1cc to Mr.K.Varadha Kamaraj, Advocate Sr.21333
+1cc to Mr.R.NeethiPerumal, Advocate Sr.21353

C.M.A.No.527 of 2018

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srg 24/09/2019