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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.759 of 2018

Surender

.. Appellant/Petitioner

Vs.

1.D.Veerasingam

2.New India Assurance Co. Ltd.,
No.35, Moor Street,
Chennai 600 001.

3.D.Venkateswara Rao

4.Oriental Insurance Co. Ltd.,
Broadway, Chennai 600 001.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 07.11.2017, made in M.C.O.P.No.833 of 1999, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.V.J.Arun Kanagaraj

For R2 : Mr.R.Neethi Perumal

For R4 : Mr.D.Bhaskaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant, seeking enhancement of the compensation granted by the award dated 07.11.2017 made in M.C.O.P.No.833 of 1999, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P.No.833 of 1999, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.09.1996.

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 auto belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.15,000/- as compensation to the appellant.



4. Not being satisfied with the amounts granted by the Tribunal in the award dated 07.11.2017, made in M.C.O.P.No.833 of 1999, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the Tribunal erred in holding that the appellant suffered only simple injuries and awarded only a meagre sum of Rs.15,000/- as compensation. The Tribunal failed to consider the fractures suffered by the appellant. The appellant has taken treatment as in-patient in Government General Hospital, Chennai from 25.09.1996 to 30.09.1996. One bottle of blood was given to the appellant as he lost blood in the accident. The appellant sustained major injuries. The amounts awarded by the Tribunal is very meagre and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellant has not examined any Doctor to prove the nature of injuries. The Tribunal considering the discharge summary, held that the appellant sustained only simple injuries and awarded compensation. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Mr.D.Bhaskaran, learned counsel appearing for the 4th respondent-Insurance Company contended that the claim petition was dismissed against the 4th respondent and 4th respondent is not a necessary party in the appeal and prayed for dismissal of appeal against the 4th respondent.

8. Heard the learned counsel appearing for the appellant, 2nd respondent as well as the 4th respondent and perused the materials on record.

9. From the materials on record, it is seen that the appellant contended that after the accident, he was admitted in the Government General Hospital, Chennai as in-patient from 25.09.1996 to 30.09.1996. According to the appellant, a bottle of blood was given to him as he lost blood in the accident and he sustained fracture of left side rib, contusion of liver (left lobe). The appellant has not examined any Doctor to prove the nature of injuries. The Tribunal in such circumstances, considered the discharge summary to ascertain the nature of injuries. The Tribunal took note of the fact that in the discharge summary, the nature of injuries are clearly mentioned and held that the appellant suffered only simple injuries and awarded a consolidated sum of Rs.15,000/-. The same is set aside. The appellant has taken treatment as in-patient in



Hospital. The Tribunal has not awarded any amount for attender charges, transportation, extra nourishment, loss of cloth, loss of amenities and pain and suffering. The appellant is entitled to Rs.5,000/- towards attender charges, a sum of Rs.10,000/- for injuries, Rs.5,000/- towards extra nourishment, Rs.10,000/- towards loss of amenities, Rs.10,000/- towards pain and suffering, Rs.500/- towards loss of cloth and Rs.2,000/- towards transportation. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	Consolidated sum	15,000/-	-	set aside
2	Pain and suffering	-	10,000/-	granted
3	Loss of amenities	-	10,000/-	granted
4	Loss of cloth	-	500/-	granted
5	Attender charges	-	5,000/-	granted
6	Injuries	-	10,000/-	granted
7	Transportation	-	2,000/-	granted
8	Extra nourishment	-	5,000/-	granted
	Total	15,000/-	47,500/-	Enhanced by Rs.32,500/-

10. In the result, the appeal is partly allowed and amount granted by the Tribunal at Rs.15,000/- is enhanced to Rs.47,500/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount along with interest and costs, 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.833 of 1999. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

The IV Small Causes Judge,
(Motor Accident Claims Tribunal),
Chennai.

+1 cc to M/s.V.J.Arun Kanagaraj, Advocate Sr.No.35403
+1 cc to M/s.R.Neethi Perumal, Advocate Sr.No.36034
+1 cc to M/s.D.Bhaskaran, Advocate Sr.No.35515

AKM/11.11.19/4P- 5C /

C.M.A.No.759 of 2018