IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1290 of 2014

P. Rathinavel ...Appellant/Claimant

Versus

1. A. Raju S/o. Anandan

2. The New India Assurance Company Ltd.
Premier Complex,
102, Yercaud Junction Road,
Salem - 636 016. ...Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of M.V. Act against the order and decree dated 29.10.2011 made in M.C.O.P.No.945 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.C. Munusamy

For Respondent-2 : Mr.J. Chandran

For Respondent-1 : No appearance

J U D G M E N T

The claimant before the Tribunal has preferred this appeal against the Judgment and order in M.C.O.P.No.945 of 2008 dated 29.10.2011 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri seeking for enhancement of compensation.

2. The brief of the case is as follows:

On 23.04.2008, when the claimant/appellant herein travelling in his motor bike bearing registration No.TN 29 AB 9038 on Omalur Main Road, a Tipper Lorry bearing registration No.TN 30 S 1543 driven by its driver in a rash and negligent manner dashed the motor bike driven by the claimant/appellant herein, due to which the claimant/appellant herein sustained grievous injuries. In view of the injuries in the road

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accident, the claimant/appellant herein made a claim petition before the Tribunal in M.C.O.P.No.945 of 2008. After trial, he was awarded a sum of Rs.7,88,400/- as compensation. Not satisfied with the award, the claimant/appellant has preferred the present appeal seeking for enhancement of compensation.

3. The learned counsel for the appellant would submit that the Tribunal has not considered the disability certificate issued by the Doctor and health condition of the appellant after the road accident. Due to the accident, the claimant/appellant herein lost his future income and earning capacity since the appellant is not able to do his routine work. Without taking into consideration the above aspects, the Tribunal has awarded a meagre sum of Rs.Rs.7,88,400/- as compensation. Hence, this Court may be pleased to enhance the award amount passed by the Tribunal.

4. On the other hand, the learned counsel for the 2nd respondent would submit that the claimant/appellant herein was awarded after considering the entire oral and documentary evidence during the trial. Hence, there is no need to interfere with the award passed by the Tribunal.

5. Heard, the learned counsel for both parties and perused the entire oral and documentary evidence placed before this Court.

6. The factum and manner of the accident being rash and negligent manner driving of the Tipper lorry driver under Section 163-A is not in dispute. Since the compensation awarded by the Tribunal is alone disputed by the Claimant/appellant herein who seeks for enhancement of compensation after considering the loss of income of the claimant/appellant herein, injuries and disability sustained by the claimant/appellant herein.

7.On perusal of the award, the Tribunal has confirmed that the accident had happened due to the rash and negligent driving of the driver of the Tipper lorry belonging to the 1st respondent herein which is insured with the 2nd respondent Insurance company herein. Accordingly, the claimant/appellant herein was awarded the aforesaid compensation after taking into consideration the facts and circumstance of case and perusing the entire oral and documentary evidence. Hence, this Court is not inclined to interfere with the award passed by the Tribunal. Hence, the 2nd respondent is directed to deposit the award amount as passed by the Tribunal within a period of four weeks from the date of receipt of copy of this order along with interest @ 7.5% p.a. On such deposit, the claimant/appellant herein is permitted to withdraw the award amount as awarded by the Tribunal.

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8. In the result, the appeal is dismissed. Accordingly, the Judgment and order passed by the Tribunal is confirmed in M.C.O.P.No.945 of 2008 dated 29.10.2011. There shall be no order as to costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

lbm

Copy to:

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Dharmapuri.

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

+1 CC to Mr.C.Munusamy, Advocate, SR 11084

+1 CC to Mr.J.Chandran, Advocate, SR 11485

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