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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA.NO.48 OF 2021

Mani @ Manikandan

... Appellant/Petitioner

Vs.

1. Dhinakaran

2. The Oriental Insurance Company Limited,
Ponnusamy Gounder Complex,
Tiruchengode Road, Sankari, Salem District.

... Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 30.09.2020 passed in MCOP.No.108 of 2016 by the Subordinate Judge, Motor Accident Claims Tribunal, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

J U D G M E N T

Not satisfied with the Award passed by the Tribunal, the claimant/appellant is before this court to enhance the compensation.

2. The claimant/appellant filed a claim petition before the Tribunal seeking compensation of Rs.15,00,000/- for the injuries sustained by him in a road accident that took place on 29.05.2015.

3. The brief case of the claimant is as follows. On 29.05.2015, at about 1.30 p.m. the claimant was riding his two wheeler bearing registration No.T-24-H-1949 along Tiruchengode-Salem Road and while nearing Mahendra Engineering College, a speedy car bearing registration No.TN 09 U 8599 hit the motorcycle thereby he sustained grievous injuries and was



admitted to Government Hospital Salem and then admitted to Krishna Hospital, Tiruchengode for better treatment. According to the claimant, the rash and negligent driving of the driver of the car was the cause of accident and since the first respondent insured his car with the second respondent, both of them are liable to pay compensation to the claimant.

4. The second respondent resisted the claim petition.

5. Before Tribunal, on the side of the claimant/appellant, the claimant was examined as PW1 and Ex.P1 to Ex.P5 were marked. On the side of the respondents, one witness was examined as RW1 and Ex.R1 was marked. In addition to that, Ex.C1 and Ex.C2 were marked as court documents.

6. After analysing the evidence on record, the Tribunal has awarded a compensation of Rs.6,80,000/- under the following heads.

Heads	Amount in Rs.
Loss of income (7500x12x18x20%)	3,24,000
Extra nourishment	50,000
Medical expenses	1,20,000
Future medical expenses	50,000
Pain and sufferings	50,000
Transportation charges	25,000
Damages to clothes and articles	10,000
Permanent Disability	50,000
Total	6,79,000
Rounded off	6,80,000

7. Heard the learned counsel for the appellant and also I have perused the material on record.

8. The learned counsel appearing for the claimant/appellant vehemently argued and placed reliance on Ex.P4 and Ex.P5 and submitted that as per Ex.P5 medical bills, the applicant had spent a sum of Rs.1,18,000/- towards medical expenses and the discharge summary Ex.P4 reveals that he sustained fracture on his left side Tuber bone and Right side Tibia bone. He also submitted that the claimant was working as a lorry body builder and earning a sum of Rs.20,000/- per month, however, the Tribunal had fixed only a sum of Rs.7,500/- as monthly income and awarded very meagre amounts towards



compensation and hence, the appellant seeks enhancement of compensation in this appeal.

9. As per the claim petition and the evidence of the claimant, he was working as a lorry body builder on contract basis and was earning a sum of Rs.20,000/- per month and his age was 23 years on the date of accident. Though the claimant stated that he was earning a sum of Rs.20,000/- per month, there is no evidence to prove his income. Therefore, by following the decisions of the Apex court in 2015 (2) TN MAC 624, the Tribunal has correctly fixed sum of Rs.7,500/- as monthly income. As per Ex.C1 Disability Certificate, the Medical Board had assessed 20% as Permanent Disability and the Tribunal has awarded a sum of Rs. 3,24,000/- towards " Loss of Income". Further, as per Ex.P5, totally a sum of Rs.1,18,020/- was spent by the claimant and hence, the Tribunal has awarded a sum of Rs.1,20,000/- towards medical bills. In addition to that, the Tribunal has also awarded various amounts towards " Extra Nourishment, Future medical expenditure, Pain and Sufferings, Damages to cloth and article and Permanent disability" and totally awarded a sum of Rs.6,80,000/- as compensation. The respondent/Insurance Company has not preferred any appeal questioning the quantum of compensation. Thus, this court is of the view that the the Tribunal has awarded a just and reasonable amounts as compensation and it does not warrant any interference by this court.

10. In the result,

(i) The civil miscellaneous appeal is dismissed.
No costs and the Award passed by the Tribunal is upheld.

(ii) The second respondent/insurance company is directed to deposit the amount with interest as awarded by the Tribunal within a period of 12 weeks from the date of receipt of a copy of this order, less the amount if already deposited.

(iii) On such deposit being made by the respondent, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

mst



To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.

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+2ccs to Mr.T.S.Arthanareeswaran, Advocate, S.R.No.3073

CMA.No.48 of 2021

SSD(CO)
RLP(08/09/2021)