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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1441 of 2013

Syed Akbar

... Appellant /Petitioner

Vs

1.Ramalingam

2.Divisional Manager,

United India Insurance Co. Ltd.,

No.46, Katpadi Road,

Vellore

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 19.01.2011 and made in MACTOP.No.766 of 2006 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Thiruvannamalai.

For Appellant : Ms.A.Subadra,
for Ms.M.Malar

For Respondent 2: Ms.R.Rathna Thara

R1 : Exparte

JUDGMENT

This civil miscellaneous appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 19.01.2011 passed by the Motor Accident Claims Tribunal, (Principal Subordinate Judge, Thiruvannamalai in MCOP.No.766 of 2006.

2. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:



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Heads	Award Amount (Rs.)
Loss of income, Permanent Disability, loss of earning capacity permanently	2,80,800/-
Medical expenses	1,635/-
Transportation charges	2,000/-
Extra nourishment	2,000/-
Attender charges	2,000/-
Loss of amenities	20,000/-
Pain and suffering	20,000/-
Total	3,28,435/-

4. This Court by its earlier order dated 28.02.2020, directed the Appellant/claimant to appear before the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai on or before 31.03.2020 for examination with regard to his disability as a result of the accident which happened on 03.03.2006 and a copy of the said order was also communicated to the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai by the Registry of this Court.

5. The Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai has addressed a letter to the Registry of this Court stating that as per the order of this Court dated 28.02.2020, the Appellant/claimant has not appeared before him and asked the Appellant/claimant to appear before him for re-examination on 10.03.2020. Despite the same, the Appellant/claimant failed to appear before the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai on the said date.

6. Once again by order dated 15.06.2021, one more opportunity was also granted to the Appellant/claimant to appear before the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai on or before 01.07.2021 for examination and directed the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai to examine the Appellant/claimant regarding the disability with reference to functional disability and submit the report on or before 30.07.2021 to this Court. Till date, the Appellant/claimant has not appeared for examination.



7. The learned counsel for the second respondent Insurance Company would submit that the Appellant is not entitled for any enhancement as he has not suffered any permanent disability and that is the reason, he has not appeared before the Medical Board for examination. According to her, the compensation awarded by the Tribunal is already excessive and there is no scope for any enhancement.

8. From the above, it is clear that the Appellant/claimant is not interested in examining himself before the Dean, Government Tiruvannamalai Medical College Hospital, Tiruvannamalai to enable him to get enhancement of compensation. It can be inferred from the conduct of the Appellant/claimant that he has not suffered any permanent disability and does not deserve any enhancement of compensation.

9. For the foregoing reasons, this Court does not find any merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. The second respondent Insurance Company is directed to deposit the entire award amount after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit and costs to the credit of MCOP.No.766 of 2006 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.766 of 2006 to the bank account of the first respondent through RTGS within a period of one week thereafter.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Judge,
Thiruvannamalai.

C.M.A.No.1441 of 2013

VG II(CO)
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