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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.2.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.1923 of 2012

S.Malliga ...Appellant / Petitioner

..Vs..

1. R.Srividhya

2. HDFC ERGO General Insurance Co. Ltd.,
Raheja Tower, No.177, Anna Salai,
Chennai - 600 002.

..Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 9.11.2011 made in M.C.O.P.No.1540 of 2009 on the file of II Small Causes Court (Motor Accidents Claims Tribunal) Chennai.

For Appellant : Mr.A.Prakash for
M/s.C & K Law firm

For Respondent No.2 : Mr.R.Sreevidhya

For Respondent No.1 : Notice unserved

JUDGMENT

Brief facts of the case is as follows:

On 24.5.2009 at about 6.45 p.m. when the petitioner was walking along the Rangapillai street, Puducherry from east to west direction near Vijaya Coffee Bar with due care and diligence, a Car bearing registration No.TN-09-AZ 0738 came from behind in a rash and negligent manner and hit against the petitioner, thereby caused accident, resulting in the petitioner sustained grievous injuries. According to the appellant, the first respondent being the owner and the second respondent being the insurer of the vehicle, both are jointly and severally liable to pay compensation to the petitioner.



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2. The first respondent remained exparte. On the side of the claimants, P.W.1 and 2 were examined and Ex.P1 to 11 were marked. On the side of the respondent, no witness was examined or any documents marked.

3. Tribunal, based on the oral and documentary evidence adduced by the claimants, came to the conclusion that the claimant has proved the accident and the second respondent Insurance company is liable to pay the award amount of Rs.4,10,340/- as compensation to the claimants along with interest at the rate of 7.5% per annum from the date of claim petition till realization.

4. Challenging the said award, the claimant has filed the present appeal against the quantum of compensation awarded by the tribunal. The compensation awarded by the tribunal under various heads are as follows:

Heads	Amount in Rs.
Future loss of income	1,05,840/-
Partial Permanent disability 14% x Rs.2000/-	28,000/-
Loss of income during treatment	13,500/-
Transport charges	3,000/-
Extra Nourishment	2,000/-
Damage to clothes and articles	2,000/-
Medical expenses	2,31,000/-
Pain and suffering	25,000/-
Total :	4,10,340/-

5. Heard the learned counsel appearing for the claimant/appellant and the learned counsel appearing for the respondent/Insurance company and perused the materials available on record.

6. The learned counsel appearing for the claimant/appellant submitted that the compensation awarded by the tribunal is only meagre, not awarded just and fair compensation to the claimant/appellant. Therefore, counsel for the appellant



seeks enhancement of compensation. According to the learned counsel appearing for the appellant, tribunal has not awarded any compensation towards future medical treatment and meagre amount for extra nourishment. The tribunal has not considered the gravity of the injury of the appellant. According to the learned counsel appearing for the second respondent/ Insurance Company, the tribunal based on the oral and documentary evidence, the tribunal has rightly determined the compensation under various heads and awarded just and fair compensation to the appellant. Therefore, there is no warrant to interfere with the award of the tribunal.

7. On perusal of the award reveal the fact that the tribunal has elaborately discussed about the injuries sustained by the appellant and determined the just and reasonable compensation to the appellant. Looking at any angle, there is no ground to consider the contention of the appellant for enhancement of compensation. Therefore, there is no warrant to interfere with the award passed by the tribunal.

8. In fine, the appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The II Small Causes Court
(Motor Accidents Claims Tribunal)
Chennai.

C.M.A.No.1923 of 2012

PVS(CO)
SB(13/09/2021)