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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2551 of 2015

Kannan

...Appellant/Petitioner

..Vs..

1.R.Caleb

2.Eswaramoorthi

3.Bajaj Allianz General Insurance Company Limited
No.18, Police Line Street,
Court Road, Tirupur.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 17.10.2014 made in MCOP.No.1519 of 2010 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Tirupur.

For Appellant : Ms.Pavithra
for M/s.V.T.Narendiran

For R-2 : Mr.K.Myilsamy
For R-3 : Mr.G.Vasudevan
R1 - Exparte

J U D G M E N T

(This Appeal has been taken up for hearing through Video Conferencing)

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of compensation under the impugned award dated 17.10.2014 passed by the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Tirupur in MCOP.No.1519 of 2010.

2. Heard Ms.Pavithra representing M/s.V.T.Narendiran, learned counsel for the Appellant/claimant, Mr.K.Myilsamy, learned counsel for the second respondent and Mr.G.Vasudevan, learned counsel for the third respondent/Insurance Company. The first respondent has remained exparte both before the Tribunal as well as this Court.



3. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this Appeal seeking for enhancement. The details of the compensation awarded by the Tribunal to the Appellant/claimant are as follows :

Heads	Award Amount (Rs.)
Disability	50,000/-
Pain & Sufferings	20,000/-
Extra Nourishment	10,000/-
Transportation expenses	10,000/-
Attender charges	10,000/-
Medical expenses	90,766/-
Loss of income	10,000/-
Total	2,00,766/-

4. The grievance of the appellant/claimant is that despite the fact that the doctor who has examined him has assessed the disability at 40%, the Tribunal, without any basis has reduced the same to 25%. It is also the contention of the appellant/claimant that the compensation awarded by the Tribunal under various heads are low and it has to be enhanced.

5. Before the Tribunal, the appellant/claimant has filed eight documents which were marked as Exs.P1 to P8 and three witnesses were examined on his side namely the appellant/claimant himself as PW,1 the doctor who examined him as PW2 and the eye-witness to the accident as PW3. On the side of the third respondent/Insurance company, one witness was examined namely the official of the Insurance company as RW1 and two documents were filed namely Exs.R1 & R2.

6. With regard to the first contention raised by the appellant/claimant regarding assessment of disability by the Tribunal is concerned, the Tribunal has adequately dealt with the same under the impugned award and has given sufficient reasons for reduction of the disability from 40% to 25%. As seen from the impugned award, the appellant/claimant has taken treatment only after a lapse of eight months from the date of the accident. The accident happened on 03.07.2010 whereas admittedly the appellant/claimant took treatment for the injuries only on 21.03.2011, after a lapse of 8 ½ months. The appellant/claimant has also admitted the same during his cross examination by the third respondent before the Tribunal. The Tribunal has taken into consideration the nature of injuries sustained by the appellant/claimant and has taken note of the



fact that there was a delay on the part of the appellant/claimant to take treatment and only thereafter, has reduced the disability to 25% from 40%. This Court is of the considered view that the reduction of disability of the appellant/claimant from 40% assessed by the doctor is a correct assessment made by the Tribunal. Hence, the first contention of the appellant/claimant with regard to the assessment of disability by the Tribunal is rejected by this Court.

7. The Tribunal has awarded compensation of Rs.50,000/- towards disability sustained by the appellant/claimant, Rs.20,000/- towards Pain & Sufferings, Rs.10,000/- towards extra nourishment, Rs.10,000/- towards transportation charges, Rs.10,000/- towards attender charges, Rs.90,766/- towards medical expenses and Rs.10,000/- towards loss of income. The said compensation awarded by the Tribunal cannot be considered to be low, as alleged by the appellant/claimant. The appellant/claimant sustained fracture in his left leg and other minor injuries. He was hospitalized only for a period of three days. The Tribunal has rightly taken note of these factors and only thereafter has assessed the compensation under the impugned award which does not call for any interference by this Court, as the compensation awarded by the Tribunal is a just compensation.

8. For the foregoing reasons, there is no merit in this appeal and the compensation awarded by the Tribunal under the impugned award is hereby confirmed.

Conclusion:

9. In the result, this appeal shall stand dismissed. The Third Respondent / Insurance Company is directed to deposit the amount awarded by the Tribunal, i.e. Rs.2,00,766/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs after deducting the amount already deposited to the credit of MCOP.No.1519 of 2010 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the appellant/claimant through RTGS within a period of one week thereafter. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1. The II Additional District & Sessions Judge,
Motor Accidents Claims Tribunal,
Tirupur.

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

+1 Cc to Mr.K.Varadha Kamaraj, Advocate sr 31230.

+1 CC to Mr.K.Myilsamy, Advocate sr 31255.

C.M.A.No.2551 of 2015

PL(CO)
SP(02/11/2021)