



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.M.A.No.3697 of 2013

S.Deivasigamani

... Appellant/Petitioner

..Vs..

1. M/s.Union Roadways Limited,
No.7, RCC 206-261, S.G.Mutt Road,
Chamrajpet,
Bangalore-560 018.

2. ICICI Lombard General Insurance Co. Ltd.,
N/o.84/85, Wall Tax Road,
Chepauk,
Chennai-600 003.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 12.11.2013 and made in M.A.C.T.O.P.No.4759 of 2012 on the file of the Motor Accident Claims Tribunal (In the Court of III Small Clauses), Chennai.

For Appellant : Ms.A.Subadra for
Mr.K.Rajeshwaran

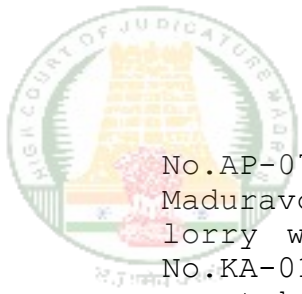
For R1 : Notice Unserved

For R2 : Mrs.R.Sreevidhya

JUDGMENT

This Civil Miscellaneous Appeal is filed to enhance the award made in M.C.O.P.No.4759 of 2012, dated 12.11.2013 on the file of the Motor Accident Claims Tribunal (In the Court of III Small Clauses), Chennai.

2.On 27.05.2006, at about 03.00 p.m., while the appellant/claimant was driving the lorry bearing registration



No.AP-07-T-3767 at Maduravoyal by-pass road, proceeding from Maduravoyal to Tambaram, near Maduravoyal by-pass junction, the lorry which belongs to the 1st respondent bearing registration No.KA-01-A-5955 came from the opposite side in the same road, overtaking the another lorry in rash and negligent manner and dashed against the appellant. Therefore, the appellant sustained grievous injuries. Claiming that the accident had happened due to the rash and negligent driving of the driver of the lorry, which belongs to 1st respondent herein, insured with the 2nd respondent, the appellant/claimant has filed a claim petition before the Tribunal claiming an award of Rs.12,00,000/- as compensation.

3.Before the Tribunal, two witnesses were examined on the side of the appellant/claimant and Ex.P1 to Ex.P5 were marked. On the side of the respondents, no witnesses were examined and no exhibits were marked. After considering the oral and documentary evidence, the Tribunal has awarded a total compensation of Rs.1,50,000/- along with the interest at 7.5% p.a. Aggrieved by the said quantum of compensation, the appellant/claimant has come up on appeal seeking enhancement.

4.The learned counsel appearing for the appellant would submit that the disability certificate issued by PW2 was marked as Ex.P5. In support of the aforesaid certificate, PW2 Dr.Thiagarajan was examined and he had deposed that the appellant had suffered 40% of the disability. But, the Tribunal without any basis has fixed the percentage of disability at 35% for the appellant/claimant. The learned counsel for the appellant would further submit that the award passed by the Tribunal under the various heads are inadequate, hence, seeks enhancement of the compensation amount.

5.The learned counsel appearing for the 2nd respondent/ICICI Lombard General Insurance Company Limited would submit that the Tribunal has considered the oral and relevant documentary evidence in detail and awarded a fair and just compensation to the appellant. Therefore, the appeal is liable to be dismissed.

6.Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent. Notice to the 1st respondent was unserved and returned.

7.On perusal of the award passed by the Tribunal, the Tribunal has discussed the oral and documentary evidence in detail and also considered the nature of injuries sustained by the appellant/claimant and assessed the disability of the appellant and awarded reasonable compensation for the loss of income during the treatment period, Transport Expenses, Damage to clothing, Medical Expenses, Attender Charges, Loss of



Amenities, Pain and Sufferings and for permanent disability.

8. On the aforesaid facts, the Tribunal has fixed fair and just compensation for the appellant/claimant there is no warrant to interfere with the award of the Tribunal and therefore, this Court is not inclined to accept the contention of the learned counsel for the appellant for enhancement of the compensation amount and there is no merit in the appeal. Accordingly, the appeal is liable to be dismissed.

9. In fine, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vv2

To

1. The Motor Accidents Claims Tribunal,
(Court of III Small Clauses), Chennai.

Copy to:
The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.K.Rajeswaran , Advocate, S.R.No.13299

+1cc to Ms.R.Sree Vidhya, Advocate, S.R.No.13528

C.M.A.No.3697 of 2013

AJS (CO)
SU(14/09/2021)