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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1380 of 2021

Govindarajan

... Appellant/Petitioner

Vs.

1. A.Jeeva

2. The New India Assurance Co, Ltd,
Motor Third Party Cell,
No.45, Moore Street,
Chennai - 01.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 09.10.2018 made in M.C.O.P.No.4578 of 2014, on the file of the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

JUDGMENT

The claimant is the appellant in this appeal. He has filed this appeal against the impugned judgment and decree dated 09.10.2018 passed by the Motor Vehicle Accident Claims Tribunal (IV Small Causes Court), Chennai in M.C.O.P.No.4578 of 2014.

2.By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.2,17,500/- as compensation together with interest accrued thereon at 7.5% from the date of petition i.e, 01.08.2014 till the date of deposit for the injury sustained by the appellant by holding the respondents 1 and 2. The owner of the vehicle and the insurer jointly and severely liable to pay the aforesaid compensation.

3.In this appeal, the appellant has sought for enhancement of compensation by another sum of Rs.2,00,000/- over and above Rs.2,17,500/- before the Tribunal. The appellant had claimed a sum of Rs.10,45,000/- under various heads as compensation but had restricted it to for a sum of Rs.6,00,000/-.



4.The Tribunal had considered the nature of injuries suffered by the appellant and awarded the aforesaid compensation of Rs.2,17,500/- under the following heads:-

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Towards Transportation and nourishing food	Rs. 20,000
Attender Charges	Rs. 12,500
Medical Expenses	Rs. 5,000
Disability	Rs. 75,000
Loss of Earning	Rs. 30,000
Damages for pain, suffering and trauma	Rs. 50,000
Loss of Amenities	Rs. 25,000
Total	Rs.2,17,500

5.The case of the appellant in this appeal is that the Tribunal erred in reducing the disability from 40% to 25%. It is therefore submitted that the Tribunal ought to have awarded the compensation due to disability as was assessed by the P.W2, considering the grievous nature of injuries suffered by the appellant, surgeries undergone and the period of treatment.

6.It is specifically stated that the amount awarded towards disability at Rs.75,000/- was liable to be enhanced. It is further submitted that the Tribunal ought to have awarded higher amount of compensation towards pain and suffering and that the Tribunal erred in awarded an amount of Rs.20,000/- towards Transportation and Extra nourishment.

7.I have considered the arguments advanced by the learned counsel for the appellant.

8.In my view, the Tribunal has awarded a just compensation for the injuries suffered by the appellant. Though the amount awarded for the disability for a sum of Rs.75,000/- is low, and the amount awarded towards pain and suffering and loss of amenities is in excess and therefore even if there is a marginal enhancement of compensation towards disability, the amount awarded towards pain and suffering and loss of amenities will have to be reduced. In my view, there is no useful purpose in disturbing the heads of compensation. The amount awarded under the different heads of compensation to arrive at the same compensation is confirmed. Therefore, I do not find any merits in the present appeal.



9.The 2nd respondent/Insurance Company is directed to deposit the compensation awarded by the Tribunal, together with interest at 7.5% per annum from the date of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of the copy of this Judgment.

10.On such deposit, the appellant/claimant is entitled to withdraw his amount together with interest as directed by the Tribunal, by filing suitable application before Tribunal.

11.Accordingly, the appeal filed by the appellant/claimant is liable to be dismissed. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accidents Claims Tribunal,
(IV Small Causes Court), Chennai.
2. The V.R.Section,
Madras High Court, Madras.

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.23972

C.M.A.No.1380 of 2021

PR (CO)
SU (17/08/2021)