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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.NO.343 OF 2017

Raghu

...Appellant/Claimant

Vs

1. J.Dhakshinamurthy
2. The New India Assurance Company Ltd.,
Divisional Office, No.1,
C.S.I. Building, Officer's Line,
Vellore.

(No relief sought against the first respondent.
Hence notice may be dispensed with)

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.11.2016 made in M.C.O.P.No.269 of 2015 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ranipet, Vellore District.

For Appellant : Mr.C.Prabakaran

For Respondents : R1-exparte
Mrs.G.Sukumari for R2

JUDGMENT

Heard the learned counsel for the appellant and the learned counsel for the respondent Insurance Company.

2.The appeal is filed by the claimant seeking enhancement of compensation.



3. The claimant/appellant herein met with road accident on 26.09.2015 on Chennai to Chittoor M.B.D. Road, Karai Junction, Ranipet, a car bearing Registration No.TN-23-AP-5568 dashed against him resulting in causing injury in the right hand shoulder, left leg, head and other parts of the body. The claimant was taken to the hospital for treatment. He was hospitalised for 7 days from 29.06.2015 to 06.07.2015. Being a young boy aged 19, he was carrying on business and earning Rs.15,000/- per month. He has preferred the claim petition for Rs.5,00,000/- against the owner of the offending car and its insurer.

4. The Insurance Company has filed counter stating that the driver of the offending car had no valid driving license and the accident occurred only due to the negligence of the claimant, who was riding a motor cycle at that time accidentally and negligently fell on the car.

5. Before the Tribunal, the claimant examined himself as P.W.1 and the Doctor, who gave the disability certificate was examined as P.W.3. The doctor has assessed the disability as 30%.

6. The Tribunal, after considering the F.I.R and other medical records has held that the negligence was on the part of the car driver and the claimant suffered 20% disability due to the fracture of left shoulder. A sum of Rs.78,650/- has been awarded as compensation under different heads.

7. In this appeal, the learned counsel for the appellant submitted that the Tribunal ought to have awarded for 30% disability and not 20% disability and further the Tribunal has failed to award any compensation for attender charges.

8. Learned counsel appearing for the Insurance Company submitted that the single fracture injury sustained by the claimant is of very minor in nature on the left shoulder, which was united subsequent to the treatment and therefore, the Tribunal has rightly assessed the disability at 20% and fairly awarded a sum of Rs.78,650/-. Regarding the attender charges, the learned counsel submitted that the claimant was in the hospital nearly for 7 days and there is no evidence that he has incurred any expenses towards attender charges.



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9. On considering the rival submissions, this Court finds that the assessment of the Tribunal regarding the disability is not erroneous and is fair and justifiable. However, the Tribunal ought to have awarded some compensation towards attender charges, since the claimant was in hospital as inpatient for a week.

10. Taking note of the said fact, an additional compensation of Rs.10,000/- is awarded under the head Attender Charges. Accordingly, the award of the Tribunal is enhanced from Rs.78,650/- to Rs.88,650/- with 7.5% interest from the date of filing the petition till the date of deposit of compensation. The Insurance Company is directed to deposit the award amount within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same on appropriate application.

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vri

To

Motor Accidents Claims Tribunal
Subordinate Court, Ranipet, Vellore District.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.3682

+1cc to M/s.R.Sivakumar, Advocate, S.R.No.3441

CMA NO.343 OF 2017

SSV(C0)
RLP(08/10/2021)