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C.M.A.No.664 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A. No.664 of 2022

Karunanithi

... Appellant

vs.

1.Mr.Venkatesh
2.The Divisional Manager,
The New India Assurance Company Ltd.,
30, 2nd Floor, J.N.Street,
Pondicherry-605 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.08.2019 in M.A.C.T.O.P.No.1086 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Officer-cum-Additional Sub Judge, Puducherry.

For Appellant : Mr.R.Sreedhar

For Respondent 2 : M/s.Ratna Thara

JUDGMENT

The claimant is the appellant before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal,



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Special Officer-cum-Additional Sub Judge, Puducherry in

WEB C M.A.C.T.O.P.No.1086 of 2014 on the ground that the compensation which has been awarded by the Tribunal below is very low.

2. The facts in brief is herein below narrated and the parties are referred to in the same rank as before the Tribunal.

3. The petitioner has filed the above claim petition seeking compensation of a sum of Rs.16,00,000/- for the injuries sustained by him in a road accident on 18.09.2014 involving the vehicle belonging to the first respondent (Tipper Lorry) bearing registration No.TN-31-BA-7677 and the petitioner's motor cycle bearing registration No.PY-01-X-0643. It is the contention of the petitioner that the said accident had occurred only on account of the rash and negligent driving of the driver of the first respondent vehicle and as a result of the impact, the petitioner had sustained grievous injuries all over his body. The petitioner was taken to the JIPMER Hospital, Pondicherry and he was informed that he has a run over injury over his lower abdomen with pubic diastasis and extra-peritoneal bladder injury. It is the case that the petitioner is continuing with his medical treatment even on



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the date of filing of the claim petition. The first respondent, owner of the Tipper Lorry remained absent, it is the second respondent who has contested the claim. The second respondent denied the allegations contended in the claim petition and would submit that the accident was the result of the negligence on the part of the petitioner and they had also put the petitioner to strict proof of his age, income and occupation.

4. The Tribunal below on considering the evidence on record held negligence squarely upon the driver of the Tipper Lorry thereby mulcting the liability to compensate the petitioner on the respondents. As regards the quantum of compensation, the Tribunal has taken into account Ex.X1- Disability Certificate issued by the Medical Board. On assessing the petitioner wherein the Board has assessed the disability at 63%, the Tribunal below has taken the same as a functional disability, since on account of the pelvic fracture and bladder injury, there is a foot drop and the petitioner, though working, was unable to walk, climb and run as was before and required the assistance of an attender for his day-to-day activities. The Tribunal has assessed compensation under the head of disability by adopting a multiplier method and awarded compensation for a



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sum of Rs.5,40,540/-. That apart, a sum of Rs.35,390/- has been given under the head of transportation charges as the petitioner has filed Ex.P15, the travel bill series and a huge sum of Rs.1,00,000/- has been granted under the head of nutritious food. The Tribunal has taken into account the fact that the petitioner had undergone three surgeries and has been hospitalized for over three months and awarded a sum of Rs.2,00,000/- under the head of pain and sufferings and a sum of Rs.1,00,000/- under the head of extra nourishment and Rs.97,279/- towards medical expenses had been awarded taking into account Ex.P11, Ex.P16, Ex.P20 and Ex.P23. A further sum of Rs.1,00,000/- has been granted under the head of attender charges and a sum of Rs.2,00,000/- towards loss of comfort and amenities. Totally, a sum of Rs.13,73,209/- has been awarded.

5. Despite the above compensation, the petitioner has chosen to file the present appeal for enhancing the quantum of compensation.

6. Heard the counsel for the petitioner, a perusal of the award passed by the Tribunal below would clearly show that the Tribunal has been very generous in awarding compensation under various heads. Despite granting



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amounts towards compensation under the head of disability by adopting a multiplier method. The Tribunal has also granted compensation under the head of comfort and amenities as well as loss of expectation of life. That apart, huge amounts have been granted under the heads of nutritious food and attender charges. Further, the Insurance Company has not chosen to contest the award. Taking into account that the compensation granted under each of the heads are reasonable, I see no reason to entertain the appeal for enhancement and consequently, the Civil Miscellaneous Appeal is dismissed and the Judgment and Decree dated 08.08.2019 in M.A.C.T.O.P.No.1086 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Officer-cum-Additional Sub Judge, Puducherry is confirmed. No costs.

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Index : Yes/No
Speaking / Non-speaking order
mka

P.T. ASHA, J.



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To:

- 1.The Special Officer-cum-Additional Sub Judge,
Motor Accidents Claims Tribunal,
Puducherry.
- 2.The Divisional Manager,
The New India Assurance Company Ltd.,
30, 2nd Floor, J.N.Street,
Pondicherry-605 001.
- 3.The Section Officer,
V.R.Section,High Court of Madras,
Chennai.

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