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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.M.A.No.3748 of 2012

Samuel ...Appellant/Petitioner

Vs

1. Rama Reddy

2. Oriental Insurance Co.Ltd.
Bangalore

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment dated 30.07.1999 passed in M.C.O.P.No.202 of 1999 on the file of the Subordinate Judge, Metur.

For Appellant : Mr.T.Thanjan

For Respondents : M/s.M.J.Vijayaraghavan for R2

JUDGMENT

This appeal has been filed by the appellant/claimant for enhancement of compensation. The Tribunal passed an award in favour of the appellant/claimant for a sum of Rs.25,400/- together with interest at the rate of 12% per annum from the date of the claim petition till the date of deposit.

2. The case of the claimants before the Tribunal is that on 06.03.1991, at 09.00 a.m, when the claimant was waiting for the bus in Bangalore - Hosur Main Road, near Old Check-post, a lorry bearing Registration No.MYT 6567, driven by its driver in a rash and negligent manner, dashed against the claimant and as a result he sustained grievous injuries. The claimant filed claim petition in MCOP.No.202 of 1999 and claimed a total compensation of Rs.1,50,000/- from the respondents.

3. The first respondent remained exparte before the Tribunal.

4. Denying the averments in the claim petition, the second respondent filed counter. According to the 2nd respondent their



liability is subject to strict proof of the age, income of the deceased and insurance cover, registration certificate, permit and valid driving licence of the driver of the vehicle.

5. The Court below after considering the pleadings, oral and documentary evidence of both sides, awarded a sum of Rs.25,400/- under the following heads :

S.No.	Particulars	Amount in Rs.
1.	Injuries sustained	15,000/-
2.	Pain and sufferings	5,000/-
3.	Loss of Income	5,400/-
	Total	25,400/-

Aggrieved over the same, the appellant/claimant has filed this appeal seeking enhancement of the compensation.

6. According to the learned counsel for the appellant, the appellant was working as a mason before the accident and was earning a sum of Rs.1500/- per month. After the accident, the appellant was not able to walk without any support and not able to stand even and the Tribunal ought to have allowed the entire claim or at atleast 75% of the claim. The award passed by the Tribunal is not just and reasonable compensation. Hence, prays to enhance the compensation.

7. The learned counsel for the 2nd respondent-Insurance company would submit that the Tribunal after considering both the oral and documentary evidence of both sides has awarded just compensation and hence, the well considered award of the Court below needs no interference.

8. Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the materials available on record.

9. On a perusal of the materials available on record, it is seen that the accident is of the year 1991. The claimant has filed the claim petition on 15.09.1995 and the award was passed on 30.07.1999 against the first respondent and as against which the present Civil Miscellaneous Appeal has been filed in the year 2012 with a petition to condone the delay of 862 days in filing the appeal. The claimant has preferred this appeal for enhancement of compensation after a period of 12 years. Further, till date notice has not been served on the first



respondent. Therefore, this Court is of the view that it is futile exercise to keep the appeal pending.

10. In the result, this Civil Miscellaneous Appeal is dismissed. The second respondent is directed to deposit the award amount, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw the amount along with interest and costs. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents claims Tribunal,
Subordinate Judge, Metur.

Copy To

The Section Officer,
VR Section,
Madras High Court.

C.M.A.No.3748 of 2012

PL(CO)
GN(09/06/2022)