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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A.NO.633 OF 2022

M.D.Selvam

... Appellant/Petitioner

.Vs.

1. A.Boobalan

2. The National Insurance Company Limited.,
Vaniambadi, Methe Complex,
C.N.A.Road, Vaniambadi.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order in M.C.O.P.No.465 of 2009, dated 11.09.2017 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Tiruvallur (FAC).

For Appellant : Mr.M.V.Deenadhayalan

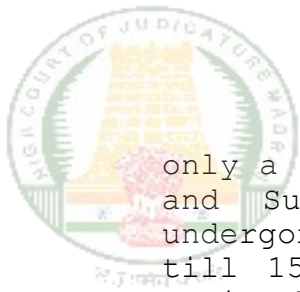
For Respondent-2 : Mr.J.Michael Visuvasam

JUDGEMENT

The above Civil Miscellaneous Appeal is filed by the petitioner to enhance the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Tiruvallur in M.C.O.P.No.465 of 2009 dated 11.09.2017.

2. Since the petition for condoning the delay of 1498 days for preferring the appeal has been allowed, the appeal itself was argued by both the parties.

3. The appellant had contended that the award of only a sum of Rs.1,53,170/- is very meagre considering the fact that the claimant has sustained injuries to his right shoulder, elbow and that he had undergone several surgeries. These factors have not been taken into consideration and only a sum of Rs.60,000/- has been awarded under the head of Permanent Disability, as also



only a sum of Rs.5,000/- has been awarded under the head of Pain and Sufferings despite the fact that the petitioner has undergone treatment from 13.05.2004, the date of the accident till 15.07.2004. The petitioner was initially admitted in the Vaniyambadi Government Hospital, Vaniyambadi. Thereafter, he was referred to the Chennai Royapettah Hospital, Chennai, where he undergone treatment from 16.05.2004 to 15.07.2004.

4. The learned counsel for the respondent/Insurance company would submit that the award of the Tribunal below is in order and does not require any re-consideration. He would also bring to the notice of the Court that although the claimant had filed the claim petition in the year 2005, the same had not been numbered till the year 2009 and now the appeal has been filed with a delay of 1498 days, which itself would go to show that the claim is not a genuine one. The learned counsel would submit that the appellant is not entitled to any enhancement.

5. Admittedly, the appellant had undergone treatment for over 2 months, that too in the Government Hospital and he has undergone a plate fixation in his shoulder, which would definitely impair free movement of his hands. The petitioner is a Jeep Driver. The Tribunal could have awarded Rs.75,000/- under the head of Permanent Disability and an additional sum of Rs.5,000/- should be added towards Pain and Sufferings. Therefore, the award is enhanced by a further sum of Rs.20,000/-. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In all other respects, the award of the Tribunal below is confirmed.

6. However, considering the fact that there has been an enormous delay, both in numbering of the petition as well as the filing of the appeal, the claimant will not be entitled to get interest for the said sum of Rs.20,000/-. The 2nd respondent/ Insurance Company shall deposit the said sum within a period of two weeks from the date of receipt of a copy of this order.

7. The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate Court),
Tiruvallur.

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Copy To:-

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

+1cc to Mr.M.Deenadhayalan, Advocate, S.R.No.18474

C.M.A.NO.633 OF 2022

AK(CO)
PBS/25/04/2022