



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2268 of 2015

Ramesh

.. Appellant

Vs.

1.V.Ramesh

R1 remained ex-parte before the Tribunal hence his presence may be dispensed with.

2.United India Insurance Co. Ltd.,
No.73-C, MTH Road,
Ambattur, Chennai-500 053.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award dated 30.04.2013 and made in WC.No.455 of 2011 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant	:	Mrs.A.Subhadra For M/s.F.Terry Chella Raja
For Respondents	:	Mrs.N.B.Surekha R2 Mr.D.Baskaran R2 R1 Exparte

J U D G M E N T

This appeal has been filed by the appellant seeking enhancement of the compensation in WC.No.455 of 2011 dated 30.04.2013 on the file of the



Deputy Commissioner of Labour-II, Chennai.

WEB COPY 2. The brief facts of the case are as hereunder :-

The appellant viz., Ramesh, aged about 38 years, was working under the first respondent lorry bearing Registration No.AP 31 W 2526 as Cleaner for a period of six months. Prior to the accident, the appellant has received a sum of Rs.6,000/- as salary per month along with Rs.250/- towards daily allowance per day at the time of accident. On 28.04.2011, at about 7.30 AM, near GNT road, while he was working, the driver driven the lorry in a rash and negligent manner and dashed against centre median. As a result of the accident, the appellant fell down from the lorry and sustained grievous injuries and admitted in Rajiv Gandhi Hospital and taken treatment as inpatient.. Thereafter, the appellants/claimants have filed a claim Petition before the Deputy Commissioner of Labour-II, Chennai under the Workmen Compensation Act, claiming compensation of Rs.5,00,000/- against the owner of the lorry and its insurer and the same was taken on file in WC.No.455/2011.

3. Before the Tribunal, during trial, in order to prove the case of the appellant, he has examined one witness and marked 7 documents viz., Exs.P1



to P7. On the side of the respondent, the second respondent examined one witness and marked two documents. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, awarded a sum of Rs.4,42,461/- as compensation to the claimant.

4. Aggrieved by the said award dated 30.04.2013, the appellant has filed this appeal before this Court seeking enhancement of the compensation.

5. The learned counsel appearing for the appellant submitted that the Tribunal failed to see that injuries sustained by the injured and nature of the injured. The Doctor assesses the disability as 70% but the Tribunal fixed the disability as 65% without any basis. The claimant is entitled for 12% interest for the award amount whereas the Tribunal has not awarded any interest to the compensation fixed. Therefore, this Court may consider the same and pass appropriate orders.

6. The learned counsel for the second respondent Insurance Company would submit that the award amount passed by the Tribunal is excessive. Hence, the learned counsel prayed to dismiss the order of the Tribunal.



WEB COPY 7. Heard the learned counsel for the appellants/claimants as well as the learned counsel for the respondent Insurance Company and also perused the materials available on record.

8. From the materials available on record, it is seen that the Tribunal reduced the percentage of disability as assessed by the Doctor from 70% to 65%. The appellant suffered 70% disability due to the injuries sustained by him in the accident and the reason given by the Tribunal for reducing the percentage of disability is correct. The Tribunal has awarded a sum of Rs.4,42,461/- for permanent disability and therefore, this Court is not inclined to modify the same. Insofar as the interest is concerned, the Tribunal has not fixed any interest for the awarded compensation. The appellant is entitled to pay the compensation along with 12% from the date of claim petition to till the date of deposit and accordingly, the same is ordered.

9. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,42,461/- with interest at the rate of 12% per annum from the date of



petition till the date of realization. The second respondent Insurance Company is directed to deposit the award amount with interest, less the amount if already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any already withdrawn. No costs.

05.10.2023

Index : Yes / No

Speaking Order : Yes/ No

rli

To

The Deputy Commissioner of Labour-II, Chennai.



WEB COPY



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M.DHANDAPANI.,J.

rli

C.M.A.No.2268 of 2015

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