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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.659 of 2021

Prabhakaran

... Appellant

Vs

1. Indran T

2. The Branch Manager,
Shriram General Insurance company Ltd.,
No.4, Lady Desika Road,
Mylapore, Near Alwarpet Signal,
Chennai-4.

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, for enhancement of compensation in the Judgment and decree dated 23.09.2019 in MACTOP. No.3882 of 2015 passed by the Motor Accidents Claims Tribunal/V Court of Small Causes, Chennai.

For Appellant : Mr.K.M.Ramesh

For Respondents : No appearance

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement in the Judgment and decree dated 23.09.2019 in MACTOP.

No.3882 of 2015 passed by the Motor Accidents Claims Tribunal/V Court of Small Causes, Chennai.



2. It is the case of the appellant/claimant that on 01.03.2015 at about 09.00 am. While the appellant/claimant was riding his motor cycle bearing Registration No.TN 05 Y 0220, at that time, a the first respondent driver driven the car bearing Reg. No.TN 05 AJ 4905, in a rash and negligent manner, dashed against the appellant/claimant. Due to the accident, the appellant sustained multiple injuries all over his body. Thereafter, the appellant has filed a claim petition before the Tribunal against the respondents, claiming a sum of Rs.20,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the appellant has examined himself as P.W.1 and marked as many as 20 documents viz., Exs.P1 to P20. On the side of the respondents, no witness was examined and one document was adduced.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the car. Therefore, the Tribunal has awarded a sum of Rs.13,43,000/- as compensation to the claimant.

5. Not being satisfied with the quantum of compensation awarded by



the Tribunal, the appellant has come forward with this appeal before this Court.

6. Learned counsel for the appellant submitted that the Doctor, who treated the appellant, has assessed the disability at 75% as partial permanent disability, in which, the Tribunal has awarded a sum of Rs.2,20,000/- towards disability, which is very meager. The accident has happened in the year 2014, at the relevant point of time, a sum of Rs.4,000/- was fixed. However, the Tribunal has fixed a sum of Rs.3,000/- per percentage towards disability, which is erroneous. Further the amount awarded towards other heads are very meager. Hence, the learned counsel for the appellant prays for enhancement of compensation.

7. Heard the learned counsel for the appellant and perused the available materials on record before this Court. There is no representation on behalf of the respondents.

8. From the materials on record, it is seen that the Doctor, who treated the claimant, assessed the disability at 75% as partial permanent disability. However, the Tribunal has fixed the disability at 74% and calculated



the appellant that at the relevant point of time, the appellant is entitled for getting a sum of Rs.4000/- per percentage of the disability. But the Tribunal has erroneously awarded a sum of Rs.2,00,000/- each towards pain and sufferings and extra nourishment, a sum of Rs.5,00,000 towards loss of amenities, a sum of Rs.1,80,000/- and Rs.30,000/- towards medical expenses and attender charges respectively, which is very high and without any supporting documents, the Tribunal has passed the award. In view of the same, the appeal filed by the appellant is misconceived and the same is liable to be dismissed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

12.12.2023

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Index : Yes/no

Internet : Yes/no

Speaking Order/Non speaking order

To

The Motor Accidents Claims Tribunal/V Court of Small Causes, Chennai.



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M.DHANDAPANI.,J.

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12.12.2023