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C.M.A.No.654 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.654 of 2020

P.Rajamanickam

... Appellant / Petitioner

Vs.

1. E.Anbarasan

2. United India Insurance Company Limited,
Motor Third Party Hub,
Silingi Building,
4th Floor, No.134, Greaves Road,
Chennai - 600 006.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.10.2019 made in M.C.O.P.No.4931 of 2015 on the file of the Motor Accidents Claims Tribunal-V, Court of Small Causes, Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents : No appearance for R1
Mr.M.J.Vijayaraghavan for R2



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J U D G M E N T

This appeal has been filed by the appellant / claimant seeking enhancement of compensation fixed by the Motor Accidents Claims Tribunal-V, Court of Small Causes, Chennai in M.C.O.P.No.4931 of 2015 by award dated 17.10.2019.

2. The appellant was involved in a road accident and sustained injuries. The first respondent is the owner of the motorcycle and the motorcycle has been insured with the second respondent. The appellant / claimant claimed compensation of Rs.17,35,000/- for the injuries sustained by him. The Tribunal, on considering the materials placed before it, particularly Ex.P1-copy of the A.R and Ex.C1-disability certificate issued to the appellant / claimant by the Regional Medical Board fixed the disability as 'Nil' percentage, came to a conclusion that, the claimant / injured did not sustained any disability as per Section 142 of the Motor Vehicles Act, 1988 and the appellant / claimant was not entitled for any compensation. Further, the Tribunal has held that the petitioner has not proved loss of earning



capacity as he has not produced bank statement or any other document to show his monthly income. Therefore, the Tribunal considering the socio economic conditions prevailing in the year 2015 that the accident took place, is inclined to fix monthly income of the appellant / claimant as Rs.10,000/- per month and taking into consideration the nature of the injury, the Tribunal fixed four months as healing / rest period and assessed the loss of income for the period of four months. Therefore, the Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.1,46,000/- under various heads. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.

3. The learned counsel appearing for the appellant contended that the Tribunal has failed to appreciate the fact that the appellant herein suffered serious injuries due to the accident and was not able to walk except without a help of a walker after the accident and he is not entitled to discharge his regular work without any discomfort. The Tribunal also awarded a meagre amount towards under the heads such as pain and sufferings, transportation, medical expenses, loss of amenities, loss of income and damages to cloths. Therefore, the learned counsel for the appellant contended that the



compensation awarded is too low for the nature of injury that has been sustained by the appellant. Hence, he seeks for enhancement of compensation.

4. Per contra, the learned counsel appearing for the second respondent / Insurance Company contended that even as per the grounds of appeal, wherein it is stated that the appellant was admitted at Government Hospital, Royapettah and thereafter, he discharged himself from the said hospital and taken conventional treatment at Puthur. Therefore, the appellant himself was responsible for not attaining any significant development in the moment of the limbs due to change of treatment. That apart, the Medical Board of the Government Hospital, Royapettah assessed the disability as 'Nil' after having a thorough examination of the appellant. Therefore, the enhancement of compensation sought for by the appellant by way of present appeal is not sustainable and hence, the appeal is liable to be dismissed.

5. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



C.M.A.No.654 of 2020

WEB COPY

6. I find considerable force in the argument made by the learned counsel for the second respondent / Insurance Company particularly on going through the injury suffered by the appellant and the disability assessed by the Medical Board, i.e., Ex.C.1, wherein the disability was assessed as 'Nil', I am of the view that the compensation awarded by the Tribunal needs no interference and hence, the award dated 17.10.2019 made in M.C.O.P.No.4931 of 2015 is confirmed.

7. Accordingly, this civil miscellaneous appeal is dismissed. No costs.

24.11.2023

Index :Yes / No

Speaking Order :Yes / No

Neutral Citation Case: Yes / No

vji

To

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

2. The Section Officer,
V.R. Section,



High Court,
Chennai.

WEB COPY



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WEB COPY



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M.DHANDAPANI, J.

vji

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