



C.M.A No.409 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.409 of 2022

Vadivel

... Appellant

Vs.

1.Ravi

2.National Insurance Company Limited,
Divisional Office-7 (350700),
50- Janapath - New Delhi-110001.

3.M/s.M.S.K.Motors,
Rep. by its proprietor,
No.29, Sathi Road, Erode-638 003.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment and decree in M.C.O.P.No.279 of 2011 dated 31.10.2019 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Sankagiri.

For Appellant : Mr.R.Navaneetha Krishnan

For Respondents : M/s.N.B.Surekha for R2

Mr.M.Palani for R3

R1 - No Appearance



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JUDGMENT

The appellant herein seeks enhancement of compensation for the injury he had suffered in a road accident that took place on 13.03.2011 at around 02.15 p.m. The appellant was a pedestrian, and he was knocked down by a brand new unregistered two wheeler, but was temporarily insured with the second respondent. The appellant is a coil winder and he is stated to have suffered injury to two metatarsals and the medical board has assessed his disability at 15%. For the injuries suffered, the appellant moved the Motor Accident Claims Tribunal, Subordinate Court, Sankagiri with M.C.O.P.No.279 of 2011, and the Tribunal had awarded a consolidated sum of Rs.50,000/-. This is now under challenge.

2.Heard Mr.R.Navaneetha Krishnan, the learned counsel for the appellant, M/s.N.B.Surekha, the learned counsel appearing for the second respondent, and Mr.M.Palani, the learned counsel appearing for the third respondent.

3.The learned counsel for the appellant submitted that while the medical board has assessed permanent disability suffered by the appellant at 15%,



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the Tribunal for no rhyme or reason has consolidated the sum instead of awarding compensation for the disability suffered.

4.The learned counsel for the second respondent submitted that it appears that the Tribunal had awarded compensation, maybe around Rs.2,500/- to Rs.3,000/-, for every percentage of injury, to which it has added the rest of the balance sum towards pain and suffering. She added that, inasmuch as the injury was suffered to two metatarsals, and given the fact that the appellant's avocation is that of a winder of electrical coils, the nature of injury or the disability suffered will not affect his power to earn income. This apart, the appellant has not even produced a shred of paper for any medical expenses, which indicates that the injury might not be serious enough to bother and award a greater compensation.

5.The evidence is scanty, but the injury is still real. Even with an injury to his leg, the appellant might not have been in a position to do his work at least for a few days. Without getting into the integrity of the heads of calculation, this Court considers an award for Rs.75,000/- might meet the ends of justice.



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N.SESHASAYEE, J.

Anu

6. Accordingly, the compensation amount is increased from Rs.50,000/- to Rs.75,000/-. The second respondent is now required to deposit the enhanced portion of the compensation with interest at the same rate as was awarded by the Tribunal and the second respondent is entitled to pay and recover the same from the owner of the vehicle.

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

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accident Claims Tribunal,
Subordinate Court, Sankagiri.

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