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C.M.A.No.766 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.766 of 2021

Syed Ibrahim

...Appellant

Vs.

1. V.Ramachandran

2. ICIC Lombard General Insurance Company Ltd.,

ICICI Lombard House,

414, Veer Savarkar Marg,

Near Siddi Vinayak Temple,

Prabhadevi,

Mumbai-400 025.

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, appeal against the Judgement and decree in M.C.O.P.No.7517 of 2015 dated 20.02.2020 on the file of the 3rd Small Causes Court, Chennai.

For Appellant : Mr.Mukund R.Pandiyan

For Respondent No.1 : Ex-parte

For Respondent No.2 : Mr.B.Siva Kollapan



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JUDGMENT

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This Civil Miscellaneous Appeal is preferred against the judgment and decree dated 20.02.2020 made in M.C.O.P.No.7517 of 2015 on the file of the 3rd Small Causes Court, Chennai.

2. Background facts in nutshell are as follows:

The appellant preferred the claim petition under section 166 of Motor Vehicles Act and Rule 3 of MACT Rules claiming compensation of Rs.22,71,250/- which was restricted to Rs.12,00,000/- for the injuries caused to the petitioner in a road accident.

3. On 14.01.2014 at about 05.30hrs the petitioner was travelling as pillion rider with one Javeed in a Star City Motor cycle bearing Registration No.TN-22-AV-4573 on the Katchari Malai Kuttai near P.R.Enterprises. At that time a Mahendra Van bearing Registration No.TN-11-D-4630 came on the right side in a rash and negligent manner and dashed against the motor cycle of the petitioner and caused accident. Due to the accident the petitioner sustained grievous injuries and was taking treatment for the same. Therefore the 1st respondent and the 2nd respondent/the insurance company is liable to pay the compensation and hence the petition. The 1st respondent remained exparte. The 2nd respondent in the counter



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submitted that the 1st respondent's vehicle is not responsible for the accident and the accident occurred due to the fault of the petitioner and the amount of compensation claimed by the petitioner is excessive. The tribunal on the above averments made in the petition and the counter framed the points for consideration as below:

"1. whether the petitioner sustained injuries in the road accident on 14.01.2014 due to the rash and negligent driving of the driver of the first respondent's Mahendra Van bearing Reg.No.TN-11-D-4630?

2. Whether the petitioner is entitled for the compensation, if so, from whom? and to what extent?"

4. The petitioner was examined as P.W.1 on the side of the petitioner and Ex.P.1 to P.10 were marked. The doctor who had examined the petitioner was examined as P.W.2 and Ex.P.11 to P.13 were marked. On the side of the 2nd respondent no oral and documentary evidence was let in. The tribunal upon considering the averments made in the petition and in the counter affidavit and the materials placed on record and the arguments advanced by the respective counsel awarded a sum of Rs.30,000/- as compensation for the simple injuries sustained by



the petitioner.

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5. Aggrieved by the same the present Civil Miscellaneous Appeal is preferred by the Claimant. The learned counsel appearing on the side of the Appellant contended that the doctor who had examined the petitioner had assessed 20% of disability and due to the injury the petitioner is unable to work as before. He would further contend that the tribunal ought to have applied the multiplication method to award the fair compensation to the petitioner and the award of Rs.30,000/- is very low and therefore he was constrained to file this present appeal for a fair compensation. On the other hand the learned counsel appearing for the 2nd respondent would contend that at the time of accident the petitioner was not wearing helmet. The evidence of the doctor would reveal that there is no after effect to the petitioner due to the said accident. The tribunal has awarded a fair compensation which calls for no interference.

6. Heard on both sides and records perused. There is no dispute with regard to liability and other aspects. The only dispute is with regard to quantum of compensation awarded by the tribunal. Ex.P.4, Ex.P.5 and Ex.P6 AR Copy, CT Scan report, Discharge summary issued by Balaji Hospital in the name of Imbran coupled with evidence of doctor examined as P.W.2 reveals that in the said



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accident the petitioner has not sustained any head injury. However the petitioner complains frequently that he is suffering from head ache and giddiness and he is not able to work as before. Though the medical report would reveal that there was not any after effect, however considering the nature of the injury this court enhanced the compensation awarded to the petitioner by the tribunal from Rs.30,000/- to Rs.50,000/- together with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit which would be a just compensation. The appeal is partly allowed.

7. The 2nd respondent/Insurance Company is directed to deposit the modified award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is entitled to withdraw the amount. There shall be no order as to costs.

10.10.2023

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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K.GOVINDARAJAN THILAKAVADI, J.

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To

The 3rd Small Causes Court,
Chennai.

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