



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2023

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.811 of 2021

R.Selvaraj ... Appellant

Vs

1. K.Subramaniam

2. United India Insurance Company Ltd.,
No.2, Bhuvaneswari Complex,
Dr.Sankaran Salai,
Namakkal Town.

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the order dated 29.02.2020 and passed in E.C.No.351 of 2016 on the file of the Commissioner, Commissioner of Labour, Coonoor.

For Appellant : Mr.C.Thangaraju
For Respondents : Mr.C.Paranthaman R2

R1 – No appearance

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of compensation in the judgment and decreedated 29.02.2020 and passed in E.C.No.351 of 2016 on the file of the Commissioner, Commissioner of Labour, Coonoor.

2. It is the case of the appellant/claimant that the appellant was



working as a driver in a lorry bearing Registration No.TN 88 A 0490, which was owned by the first respondent and insured with the second respondent.

On 02.06.2016 at about 11.00 PM, the appellant was on duty and in the process of tarpaulin folding in the cabin which suddenly, the appellant's hand slipped and fell down from the top of the said lorry and sustained injuries and caused the accident. Thereafter, the claimant, has filed a claim petition before the Commissioner claiming a sum of Rs.15,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the appellant has examined two witnesses viz., P.W.1 and P.W.2 and marked as many as 12 documents viz., Exs.P1 to P12. On the side of the respondents, there is no witness examined and no documents were marked.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Commissioner has awarded a sum of Rs.2,94,907/- as compensation to the claimant.

5. For enhancement of compensation awarded by the Commissioner, 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 40% whereas the Commissioner has fixed the disability at 35% which is erroneous and also the appellant is aged about 43 years old and received a sum of Rs.8500/- per month as salary. Further the appellant is unable to do normal work and as a lorry driver, he is not in a position to undertake his avocation. Without considering all these facts, the learned Commissioner has awarded Rs.2,94,907/- , which is meager and the same needs interference.

7. The learned counsel for the second respondent submitted that in the present case, the appellant has not filed his income proof before the Commissioner and he has to prove that he had a valid driving license at the time of the alleged accident. The Commissioner has awarded the compensation, which is highly excessive and the same is liable to be set aside and the appeal is liable to be dismissed. .

8. Heard the learned counsel for the appellant as well as the respondents and perused the available materials on record before this Court.

9. A perusal of the details relating to the award passed by the

<https://www.mhc.tn.gov.in/> Commissioner will go to show that the Commissioner had taken into



consideration the income of the appellant and percentage of the disability and year of the accident, rightly fixed the loss of disability and this Court is not inclined to increase the same any further. The Commissioner, based on the law laid down by this Court and the Apex Court in various decisions, has awarded compensation under various heads, which, by no stretch of imagination could be termed as unfair or unreasonable. This Court is of the considered opinion that the Commissioner has awarded fair and reasonable compensation and, therefore, there cannot be any grievance for the appellant with regard to the quantum of compensation awarded to him. The grounds raised for assailing the quantum of compensation awarded is not acceptable to this Court and this Court finds no merit in the appeal and, accordingly, this appeal deserves to be dismissed.

10. In the result, this civil miscellaneous appeal is dismissed confirming the judgment and decree dated 29.02.2020 passed by the Commissioner of Labour, Coonoor made in EC.No.351 of 2016. No costs.

15.12.2023

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The Commissioner, Commissioner of Labour, Coonoor.



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M.DHANDAPANI.,J.

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