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CMA No. 34 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 34 of 2022

M.Arumugam @ Ananthan

... Appellant

Versus

1.E.Karuppaswamy

2.Reliance General Insurance Co. Ltd.,
Rai's Tower 2nd Floor,
No. 2054, II Avenue,
Anna Nagar,
Chennai- 600 040.
Now at
Reliance General Insurance Co. Ltd.,
“Reliance House” 4th Floor,
No. 6, Haddows Road,
Chennai – 600 006.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 3706 of 2013 dated 22.12.2020 on the file of the VI Judge, Small Courses Court (Motor Accidents Claims Tribunal), Chennai.



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For Appellant : Mr. A.G.F.Terry Chella Raja
for Mr. A.Shanmugaraj

For Respondents : R1 - Exparte

Mr. P.Suresh Srinivasan (for R2)

J U D G M E N T

The claimant has preferred the instant appeal seeking enhancement of compensation awarded by the Tribunal in M.C.O.P. No. 3706 of 2013 dated 22.12.2020.

2.The appellant had filed the claim petition seeking compensation stating that on 06.01.2011 at about 9.15 a.m., while the appellant was walking along GNT Road near Padiyanallur Bus Stop from North to South, a lorry driven by its driver in a rash and negligent manner, dashed against him and caused grievous injuries.

3.The first respondent had remained exparte before the Tribunal.

4.The second respondent filed counter denying all the averments made in the claim petition stating that the accident did not take place due



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to the rash and negligent driving of the driver of the offending vehicle;
and that in any case, the compensation claimed by the appellant is excessive and prayed for dismissal of the claim petition.

5.The appellant examined himself as PW1 and doctor as PW2 and marked Ex.P.1 to Ex.P.13. The second respondent neither examined any witness nor marked any documents.

6.The Tribunal after considering the oral and documentary evidence found that the accident took place due to the rash and negligent driving of the driver of the offending vehicle and considering the nature of injuries sustained by the appellant, awarded the compensation of Rs. 62,500/- to the appellant to be paid by the second respondent.

7.The learned counsel for the appellant submitted that the Tribunal had erroneously rejected the disability certificate issued by PW2 Government Doctor, who had assessed the disability of the Appellant at 30%. The appellant suffered injuries on the left foot and lacerated muscle depth injury over left heel, abrasion over left knee and U-shaped injury exposing the muscle and tendon of the left dorsum of foot. Therefore,



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considering the nature of injuries, the learned counsel submitted that the compensation awarded by the Tribunal requires enhancement.

8. Since the first respondent remained *exparte* before the Tribunal, the learned counsel for the appellant sought permission of this Court to dispense with the notice to him and has made an endorsement to that effect. Hence, notice to the first respondent is dispensed with.

9. The learned counsel for the second respondent, *per contra*, submitted that the appellant was not subjected to examination by the Medical Board. The evidence of PW2 Doctor and the injuries suggest that they are simple in nature. Considering the above facts, the Tribunal had awarded compensation in a just manner and no interference is called for and prayed for dismissal of the appeal.

10. The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.



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11.This Court finds that the appellant had examined PW2, a private doctor who had issued Ex.P.13 disability certificate. As per Ex.P.13, the appellant had suffered 30% disability. It is seen that the appellant was not subjected to examination by Medical Board. Hence, this Court is of the view that considering the nature of injuries which is extracted above, the Tribunal was right in holding that the appellant had only suffered simple injuries. The Tribunal had fixed a just compensation of Rs. 50,000/- and awarded compensation towards other conventional heads. Therefore, this Court finds that the said finding is just and reasonable and no interference is called for.

12.In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.62,500/- is confirmed together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The second respondent is directed to deposit the award amount determined by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment, if not already deposited. On such deposit, the appellant



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is permitted to withdraw the award amount along with interest and costs,
less the amount if any, already withdrawn. No costs.

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ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The VI Judge,
Small Causes Court (Motor Accidents Claims Tribunal),
Chennai.

2. The Section Officer,
VR Section,
Madras High Court,
Chennai – 600 104.



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SUNDER MOHAN, J

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Dated: 14.09.2023