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C.M.A.No.414 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.414 of 2018

Janakiraman
S/o.Arumugam

... Appellant

Vs.

1.Sandhanakrishnan

2.The New India Assurance Company Limited,
Third Party Claim Office,
No.45, 5th Floor, Moore Street,
Chennai-1.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.07.2016 made in M.C.O.P.No.1475 of 2012 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.1, Chennai.

For Appellant : Mr.M.Logesh

For Respondents : R1-Ex-parte
Mrs.R.Sreevidhya for R2



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J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court No.1, Chennai, in M.C.O.P.No.1475 of 2012, dated 29.07.2016, has filed this appeal.

2. On 22.01.2012, at about 11.00 p.m., when the appellant/claimant was riding a motor-cycle bearing Reg.No.TN 06 D 0888 at Chamiers, towards R.A.Puram, 1st Main Road, Chennai, a car bearing Reg.No.TN 09 AU 3303 belonging to the first respondent was driven by its driver came from Chamiers Road from west to east direction in a rash and negligent manner and dashed at the back side of the motorcycle and thereby, the appellant/claimant sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the appellant/claimant before the Tribunal seeking for compensation against the respondents, who are the owner and insurer of the car.



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3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P10 were marked. On the side of the respondents, no witness was examined and no document was marked. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the car. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,57,148/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

4. The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.

5. The learned counsel appearing for the appellant submitted that due to the accident, the appellant's sustained permanent disability, however,



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the Tribunal has not adopted the multiplier method and fixed the disability on per percentage basis and a sum of Rs.1,20,000/- only was awarded towards disability and the amount awarded under the other heads is also very meagre. Hence, the learned counsel prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company submits that the compensation awarded by the Tribunal is on the higher side which does not require any interference by this Court. Hence, he prays for dismissal of this appeal.

8. 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.



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9. The factum of the accident is not disputed by the parties.

Therefore, this Court is not entering into the said aspect. The only grievance of the claimants is with regard to the quantum of compensation awarded by the Tribunal.

10. In the instant case, the accident occurred on 22.01.2012 due to the rash and negligent driving of the driver of the car belonging to the first respondent and insured with the second respondent and therefore, the second respondent was directed to pay the compensation and these facts are not in dispute. Though the learned counsel appearing for the appellant submitted that the appellant sustained permanent disability, it is seen from the records that P.W.2/Doctor assessed 10% of permanent disability and 30% of disability for infection and in total, P.W.2 assessed 40% disability and issued Ex.P10/Disability Certificate and it was not sufficient to hold that his future earning capacity was affected due to the injuries and further, P.W.2/Doctor, has not assessed any functional disability and the injuries sustained by the



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appellant would not affect his earning capacity. Thereby, the multiplier method was not adopted and the Tribunal has fixed the disability on per percentage basis and a sum of Rs.1,20,000/- (40% * 3000) was awarded towards disability. A sum of Rs.15,000/- awarded towards loss of earning during treatment and Rs.75,000/- awarded towards compensation for loss of future amenities and matrimonial prospectus also appears to be reasonable. Apart from this, the Tribunal has also awarded a sum of Rs.25,000/-, Rs.6,000/- and Rs.5,000/- under the heads 'pain and sufferings', 'expenses towards conveyance', and 'extra nourishment' which does not require any interference. As per the Medical bills which was marked as Ex.P7, a sum of Rs.7,148/- was awarded towards medical expenses. The other heads, namely, attender charges and damages or clothing and articles awarded by the Tribunal are also just and reasonable. Hence, the award dated 29.07.2016 made in M.C.O.P.No.1475 of 2012 by the Motor Accident Claims Tribunal, Special Sub Court No.1, Chennai, is hereby confirmed.



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11. Accordingly, this Civil Miscellaneous Appeal is dismissed.

There shall be no order as to costs.

22.11.2024

(2/2)

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1.The Motor Accidents Claims Tribunal,
Special District Court, Dharmapuri.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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