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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2023

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.678 of 2021

Kandasamy

... Appellant

Vs

1. P.Rajesh

(Notice for R1 may be dispensed with for the time being and separate petition has been filed for the same)

2. United India Insurance C. Ltd.,
Rep. By Manager, 595-B2/B3, SRS Tower,
Mettur Main Road, Bhavani, Erode District.

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, to set aside the judgement made in MCOP. No.365 of 2016 on the file of the Motor Accidents Claims Tribunal cu 4th Additional District Court, Erode District, Bhavani dated 30.04.2019 and for enhancement of compensation.

For Appellant : Mr.Sri thangavel

For Respondents : Mrs.I.Malar R2

R1 - NDW

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation in MCOP. No.365 of 2016 on the file of

the Motor Accidents Claims Tribunal cu 4th Additional District Court, Erode



District, Bhavani dated 30.04.2019.

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2. It is the case of the appellant/claimant that on 24.04.2016 at about 10.00 a.m., when the petitioner was standing along with TVS XL motor cycle bearing Reg. No.TN 36 U 5103 near Ammapettai Royal Bakery, Bhavani to Mettur Road, on the left side of the road, at the time, an Auto, owned by the first respondent and insured with the second respondent, bearing Reg. No.TN 36 U 3458 which was driven by first respondent, in a rash and negligent manner and hit against the appellant. Due to the accident, the appellant sustained grievous injuries. Thereafter, the appellant has filed a claim petition before the Tribunal, claiming a sum of Rs.5,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, on the side of the appellant, three witnesses were examined and marked as many as 5 documents viz., Exs.P1 to P25. On the side of the respondents, one witness was examined and no document was adduced.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has come to the conclusion that the accident had taken place due to the rash and



negligent driving of the driver of the Auto. Therefore, the Tribunal has awarded a sum of Rs.5,17,323/- as compensation payable by the respondents.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, 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 50% as functional disability and the Tribunal failed to properly consider the nature of the injuries, awarded only a sum of Rs.1,50,000/- towards loss of disability, which is very meager. The Tribunal ought to have been considered and awarded the proper and reasonable compensation under the heads of pain and suffering, transportation, nutrition, future medical expenses, loss of income during treatment period and attender charges by considering the nature of injuries and the disablement and the period of treatment of total 52 days as inpatient in hospital. Hence, the learned counsel for the appellant prays for enhancement of compensation.



/Insurance Company submitted that the respondent has denied all the averments made by the appellant in the claim petition and filed a counter to that effect. The Tribunal has awarded compensation in favour of the appellant is highly excessive and there is no basis for awarding such compensation. Hence, the learned counsel prays to dismiss the appeal.

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

9. From the materials on record, it seen that the Doctor has assessed 50% disability to the appellant for injuries sustained and the Tribunal has also fixed the same and awarded Rs.3000/- per percentage. The accident had happened in the year 2016 and this Court enhances the same at Rs.5000/- per percentage. In respect of pain and sufferings is concerned, the Tribunal has fixed a sum of Rs.25,000/- and this Court is inclined to increase the amount from 25,000/- to Rs.50,000/- which the appellant is entitled for. The other award passed by the Tribunal is correct and the same does not warrant any interference. The compensation awarded by the Tribunal is modified as follows:



Sl.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of disability	1,50,000	2,50,000
2	Medical expenses	3,02,323	3,02,323
3	Extra nourishment	10,000	10,000
4	Pain and sufferings	25,000	50,000
5	Attender charges	20,000	20,000
6	Transportation	10,000	10,000
	Total	5,17,323/-	642,323/- Rounded of to Rs.6,42,500/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,17,323/- is hereby enhanced to **Rs.6,42,500/-**, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced award amount with interest, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.



M.DHANDAPANI.,J.

rli

Index : Yes/no
Internet : Yes/no
Speaking Order/Non speaking order

To

The 4th Additional District Court, Erode District, Bhavani

C.M.A.No.678 of 2021