



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 101.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.519 of 2013

Jahir Ahamed

.. Appellant

Vs.

1. A.Raja

(R1 was set ex-parte in the trial Court)

2. Reliance General Insurance Co. Ltd.,

No.6, 6th Floor, Haddows Road,

Nungambakkam, Chennai.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.09.2012 made in MACT. OP.No.2469 of 2010 on the file of the VI Judge, Motor Accidents Claims Tribunal (Small Causes Court) Chennai.

For Appellant : Mr.C.Munusamy

For Respondents : Mr.G.Vasudevan R2

J U D G M E N T

This appellant/claimant has come forward with this appeal seeking enhancement of compensation by challenging the decree and judgment dated 03.09.2012 in MACT. OP.No.2469 of 2010 passed by the VI Judge, Motor Accidents Claims Tribunal (Small Causes Court) Chennai



evidence, allowed the petition in part and awarded a sum of Rs.5000/- each in total Rs.60,000/-as compensation to the claimant. Aggrieved by the said award, the appellant has filed this appeal before this Court for enhancement of the compensation.

4. The learned counsel for the appellant/claimant submitted that the Tribunal has erred in awarding a sum of Rs.40,000/- towards disability when the Doctor who assessed the disablement of the petitioner as 40% was examined as PW2 and he marked the disability certificate and X Ray as Exs.P4 & 5 respectively. The Tribunal did not consider the gravity of injuries as well as impact and consequences of the injuries and no award has been passed under the heads of loss of income and mental agony to the family members and loss of amenities.

5. Per contra, learned counsel appearing for the respondent/insurance company submitted that the first respondent has no valid insurance policy for the offending vehicle on the date of accident and the the appellant has sustained only simple injuries and therefore, the Tribunal has awarded the compensation towards disability is reasonable and this Court may dismiss the appeal.



WEB COPY

6. 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.

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

8. On perusal of the award, it is seen that the appellant, before the Tribunal, except, A.R. Copy, the appellant has not produced any medical records. The Doctor has assessed 40% disability to the appellant but the appellant sustained only simple injuries and the medical records was not produced before the trial. Therefore, the Tribunal has fixed 20% disability and rightly awarded a sum of Rs.40,000/- which does not warrant any interference. The compensation awarded under other heads are just and reasonable.



9. In the result, the civil miscellaneous appeal is dismissed. The insurance company is directed to deposit the compensation amount with interest at the rate of 7.5% per annum from the date of petition till the date of realization, after deducting the amount if any already deposited within a period of six weeks from the date of receipt of a copy of this order and thereafter, recover the amount from the first respondent. On such deposit, the appellant is permitted to withdraw the same on making proper application before the Tribunal. No costs.

01.11.2023

Index : Yes
Speaking Order : Yes
rli

To

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



WEB COPY



6

M.DHANDAPANI,J.

Rli

C.M.A.No.519 of 2013

01.11.2023