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CMA.No.2719 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.2719 of 2019

S.Jayapriya

... Appellant/Claimant

-Vs-

1. S.Elangovan

2. IFFCO TOKIO General Insurance Company Ltd.,
No.128, 5th Floor, Habibullah Road,
T.Nagar, Chennai.

... Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 04.02.2019 made in M.C.O.P.No.3265 of 2014 on the file of the II Additional Subordinate Judge, Cuddalore.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.S.Arunkumar [R2]

JUDGMENT

This Civil Miscellaneous Appeal arises against the judgment of the Motor Accident Claims Tribunal, II Additional Subordinate Judge, Cuddalore, passed in M.C.O.P.No.3265 of 2014 on 04.02.2019.



CMA.No.2719 of 2019

2. The claimant has filed this appeal seeking enhancement of compensation.

3. It is a case of the appellant/claimant that on 17.08.2014 at about 5.15 p.m., when the petitioner was proceeding as pillion rider in the 1st respondent's Bajaj CT 100 motorcycle bearing Registration No.PY-01-AB-6018 from Puducherry to Kuchipalayam, the rider of the motorcycle drove it at a great speed in a rash and negligent manner and dashed against the Bajaj Discover motorcycle bearing Registration No.PY-01-BN-3388 coming from Pakkam to Kondur direction. Due to the said accident, the petitioner sustained grievous injuries. Hence, the petitioner has filed a petition before the Tribunal claiming a sum of Rs.5,00,000/- from the respondents together with interests and costs for the injuries sustained by him.

4. Before the Tribunal, on behalf of the claimant, the claimant herself was examined and eight exhibits were marked i.e., Ex.P1 to Ex.P8. None were examined on the side of respondents nor were any exhibits marked and the Court has taken the Disability Certificate as Ex.C1.



CMA.No.2719 of 2019

5. On appreciation of the materials before it, the Tribunal awarded a sum of Rs.50,000/-(Rupees Fifty Thousand only) to the appellant/claimant. The said sum was directed to be paid by the second respondent along with interest at 7.5% per annum from the date of petition till the date of deposit of the award amount.

6. Learned counsel for the appellant/claimant submits that the Tribunal erred in granting the compensation to the appellant/claimant.

7. I have heard the learned counsel appearing for the appellant/claimant and the learned counsel appearing for the second respondent and have perused the records.

8. Considering the injuries sustained by the appellant/claimant, I am of the view that the compensation of Rs.50,000/- needs to be enhanced and the same is enhanced to Rs.70,000/-.

9. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.70,000/- together with interest at 7.5% per annum from the date of petition till date of deposit as compensation.



CMA.No.2719 of 2019

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11. The appellant/claimant shall be entitled to withdraw the entire amount on such deposit by the second respondent.

Accordingly, this Civil Miscellaneous Appeal is partly allowed.

No costs.

17.03.2023

mp

To
The Motor Vehicle Accident Claims Tribunal/
II Additional Subordinate Judge, Cuddalore.



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CMA.No.2719 of 2019

A.A.NAKKIRAN, J.

mp

CMA.No.2719 of 2019

17.03.2023