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C.M.A. No. 3307 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

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THE HONOURABLE MR. JUSTICE **A.A.NAKKIRAN**

C.M.A. No.3307 of 2014

C.Krishnamoorthy

... Appellant

Vs.

1.N.Venkatachalam

2. The Branch Manager,
New India Assurance Company Ltd.,
Branch Office, Tiruchengode.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 (1-A) of Motor Vehicles Act, 1989, against the judgment and decree dated 03.02.2011 made in MCOP No.648 of 2008 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.P.Dinesh Kumar

For Respondents 1 : (Refused to take notice)
2 : Mr.K.Padmanabhan



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JUDGMENT

This appeal has been preferred by the claimant in M.C.O.P. No.648 of 2008 on the file of Motor Accident Claims Tribunal, Principal Subordinate Judge, Krishnagiri.

2. The appellant is a loading and unloading coolie who travelled in a lorry bearing Reg.No.TN-27-F-4091. When the said lorry was proceeding near Pavanur diversion road at Puliampatti, a Crane Vehicle bearing Reg.No.TN-29-3537 belonging to the first respondent driven by its driver in a rash and negligent manner, had dashed the right side of the said lorry and caused the accident. Due to the accident, the petitioner sustained injuries. Hence he filed a petition claiming compensation for a sum of Rs.4,00,000/- before the Motor Accident Claims Tribunal, Principal Subordinate Judge, Krishnagiri. As against the claim of Rs.4,00,000/-, the Tribunal awarded a sum of Rs.57,000/- along with interest at the rate of 6% per annum from the date of petition to the date of deposit excluding the default period if any. Not being satisfied with the compensation awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.



3. Learned counsel for the appellant submitted that in the accident that had occurred, the appellant had sustained severe burn injuries and due to which he is unable continue his work. P.W.3-Doctor had clearly stated that the appellant could not do any work due to the injury caused. He further submitted that the Tribunal, without properly considering the disability certificate, had fixed the permanent disability at 40% and awarded a sum of Rs.40,000/- (Rs.1,000/- x 40%) which is meagre. The Tribunal had awarded only a sum of Rs.2,000/- future medical assistance. The appellant being a Coolie worker, could not meet out the medical expenses with the compensation so awarded. The compensation awarded by the Tribunal towards pain and sufferings and medical assistance are meagre and hence the same should be enhanced.

4. Per contra, the learned counsel appearing for the 2nd respondent contended that the Tribunal accepted the disability certificate and awarded a sum of Rs.40,000/- (Rs.1,000/- x 40%) for 40% of disability and the same is not meagre. The appellant has not produced any material evidence to prove his avocation and income. The Tribunal considering the entire materials on record, has awarded a sum of Rs.57,000/- as compensation to the appellant under different heads and the same is not meagre. The appellant has not made out



any case for enhancement of compensation and prayed for dismissal of the appeal.

5. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

6. It is the contention of the appellant that in the accident he suffered severe burn injuries all over the body. The Tribunal accepted the disability certificate and awarded a sum of Rs.40,000/- for 40% of disability at the rate of Rs.1,000/- per percentage of disability and the same is meagre.

7. Considering the fact that the claimant suffered severe burn injuries, this Court is of the view that the claimant is entitled to a sum of Rs.80,000/- (Rs.2,000/- x 40%) towards permanent disability as against the award of Rs.40,000/-. However, this Court is not inclined to interfere with the compensation arrived by the Tribunal under other heads. Hence, the compensation granted by the Tribunal under other heads remains unaltered. In all, the Tribunal ought to have awarded a sum of Rs.97,000/- instead of



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Rs.57,000/- as compensation to the appellant. Therefore, the award of Tribunal is enhanced by awarding a sum of Rs.97,000/- as compensation along with interest at the rate of 6% per annum from the date of claim petition till the date of deposit. The second respondent is directed to deposit the balance amount within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the appellant is entitled to withdraw the same.

8. As a result, the Civil Miscellaneous Appeal is partly allowed and the judgment passed by Motor Accident Claims Tribunal, Principal Subordinate Judge, Krishnagiri., in M.C.O.P. No.648 of 2008, dated 03.02.2011, is modified to the extent indicated above. No costs.

25.04.2023

Internet:Yes
Index:Yes/no
Speaking/Non speaking order
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A.A.NAKKIRAN, J

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To

The Motor Accident Claims Tribunal,

Principal Subordinate Judge,

Krishnagiri.

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