



C.M.A.No.2943 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2943 of 2022

L.Rajini
S/o.Lakshmanan
Vinayagapuram
Tondiarpet
Chennai 600081

... Appellant

Vs.

1.Sundari
8, N.K.Street,
Krishna Nagar
Vellore, Tamil Nadu.

2.United India Insurance Co. Ltd.,
45/1, New Thiruvalam Road
Opposite to VIT University
Kangeya Nallur
Vellore 632 006.

... Respondents

Prayer : Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Award and Decree dated 04.09.2019 made in MCOP. No.675 of 2015 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.



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For Appellant : Mr.V.Balamurugan

J U D G M E N T

The Appeal has been filed against the Award and Decree dated 04.09.2019 made in MCOP. No.675 of 2015 on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai.

2.The claim Petitioner is the Appellant herein challenged the award passed in MCOP.No.675 of 2015, dated 04.09.2019, on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai, seeking enhancement of compensation.

3.For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the offending vehicle, insured with the 2nd Respondent/Insurance Company are not in dispute and accordingly the same are hereby confirmed.



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5.The claim Petitioner filed MCOP.No.675 of 2015, seeking compensation for the injuries sustained by him in a road accident occurred on 16.05.2014. The Tribunal awarded a sum of Rs.55,000/- to the claim Petitioner.

6.During the trial, PW1 to PW3 were examined & Ex.P.1 to Ex.P.11 were marked on the side of the claim Petitioner and RW1 was examined & Ex.R.1 was marked on the side of the Insurance Company.

7.In support of his claim, the claim Petitioner examined PW2/Dr.Mathialagan and marked Ex.P.2/Medico legal opinion, Ex.P.4/X-ray, Ex.P.9/copy of case sheet and Ex.P.10/another X-ray. The trial Court on consideration of oral and documentary evidence adduced before the Tribunal, come to a conclusion that as per copy of the case sheet/Ex.P.9 and as per the evidence of Resident Medical Officer, Government Stanley Hospital, the claim Petitioner got injury on the right foot and was admitted on 16.05.2014 in the hospital and was absconded on 19.05.2014.



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8.PW3/Doctor, who has not given treatment to the claim Petitioner, assessed the disability of the claim Petitioner at 25%, as could be seen from Ex.P.11. As per his evidence, there is pain and stiffness on the right leg of the claim Petitioner and his ankle movement is restricted and his ankle flexibility is only 0° to 30°, but Pw3 had admitted in the cross examination that the claim Petitioner has not underwent any surgery. He is not assessed the disability in respect of the whole body and has also not produced any working sheet to arrive the quantum of disability. Though Ex.P.10/X-ray was produced, certificate and report were not produced and therefore, the trial Court has fixed the disability at 10%. Taking note of the fact that the accident is of year 2014, the trial Court fixed Rs.3,000/- per percentage of disability and awarded a sum of Rs.30,000/- for disability and by adding Rs.25,000/- towards pain and sufferings, loss of amenities, extra nourishment, attender charges, damages to clothes, granted a sum of Rs.55,000/- as total compensation.

9.Admittedly, no document was produced to show as to whether the claim Petitioner was treated as inpatient in the hospital and admittedly, no surgery was done on him. Hence, I find that the amount awarded by the Tribunal is just, fair and does not want any interference of this Court.



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10. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

06.01.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

sai

To

The IV Judge,
Court of Small Causes,
Chennai.



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RMT.TEEKAA RAMAN.J,

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