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C.M.A.No.1272 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1272 of 2017

Thirumani

... Appellant

Vs.

1.Jeyabalaji

(Since R1 remained exparte before the
Tribunal his presence may be dispensed with)

2.United India Insurance Company Limited,
Divisional Office,
No.73, MTH Road,
First Floor,
Ambathur,
Chennai – 600 053.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 10.12.2010 and made in M.A.C.T.O.P.No.527 of 2007 on the file of the Motor Accident Claims Tribunal and Additional District Judge, Ponneri.

For Appellant : Mrs.Subadra
for M/s.M.Malar

For Respondents : Mr.C.Paranthaman for R2



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J U D G M E N T

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This appeal has been filed by the appellant/ claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal and Additional District Judge, Ponneri, in the order dated 10.12.2010 in M.C.O.P.No.527 of 2007.

2.The appellant/ claimant had filed claim petition in M.C.O.P. No.527 of 2007 before the Motor Accidents Claims Tribunal, claiming a sum of Rs.2,50,000/- as compensation for the injuries sustained by him and the Tribunal vide order dated 10.12.2010 awarded a sum of Rs.1,25,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit with costs as compensation. Aggrieved by the same, the claimant has preferred this appeal.

3.The learned counsel appearing for the appellant submitted that on 28.01.2007 at about 19.00 hours when the appellant was travelling in a bike bearing Registration No.TN 09 AC 4907 near Saravana Bhavan Hotel, 10th Avenue, Ashok Nagar, Chennai, a motor cycle bearing Registration No.TN 09 AA 3786 came in a rash and negligent manner and dashed against the vehicle driven by the



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appellant, due to which, he sustained injuries.

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4.The learned counsel appearing for the appellant further submitted that the appellant filed claim petition claiming a sum of Rs.2,50,000/- as compensation, however, the Tribunal awarded only a meagre amount as compensation. The learned counsel further submitted that the Doctor who assessed the disability is a qualified Doctor and he assessed the disability as 35%, however, the Tribunal awarded only a sum of Rs.75,000/- for pain and sufferings and awarded only a sum of Rs.50,000/- for medical expenses, which is very meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that without any medical bills, the Tribunal awarded a sum of Rs.50,000/- for medical expenses. The learned counsel further submitted that the qualified Doctor to assess the claimant's disability is only Orthopedic, however, the Doctor who assessed the claimant's disability is a General Physician. Hence, the impugned order warrants no interference.

6.Heard the arguments advanced on either side and perused



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the materials available on record.

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7.The facts in the present case is not in dispute. Admittedly, on 28.01.2007 at about 19.00 hours when the appellant was travelling in a bike bearing Registration No.TN 09 AC 4907 near Saravana Bhavan Hotel, 10th Avenue, Ashok Nagar, Chennai, a motor cycle bearing Registration No.TN 09 AA 3786 came in a rash and negligent manner and dashed against the vehicle driven by the appellant, due to which, he sustained injuries.

8.It is also undisputed fact that without any medical bills, the Tribunal awarded a sum of Rs.50,000/- for medical expenses. The qualified Doctor to assess the claimant's disability is only Orthopedic, however, the Doctor who assessed the claimant's disability is a General Physician. Disability varies from Doctor to Doctor. Hence, the amount awarded as compensation to the appellant is just and reasonable and the impugned order warrants no interference.

9.The civil miscellaneous appeal stands dismissed. The judgment and decree dated 10.12.2010 made in M.C.O.P.No.527 of 2007 by the Motor Accident Claims Tribunal and Additional District



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Judge, Ponneri, is confirmed.

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10.The second respondent/ Insurance Company is directed to deposit the entire award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the appellant/ claimant is permitted to withdraw the entire compensation amount with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

11.The civil miscellaneous appeal is dismissed. No costs.

12.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal and
Additional District Judge, Ponneri.

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M.DHANDAPANI,J.
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