



C.M.A.No.692 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.692 of 2020

K.Prithivy

...Petitioner/Appellant

Vs

1.P.Sekar

2.Reliance General Insurance Company Limited,
Reliance House, No.6, 6th Floor,
Haddows Road, Nungambakkam,
Chennai-600 034.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.02.2019 made in MACT O.P.No.1505 of 2016 on the file of the Motor Accidents claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant ... Mr.A.Subadra

For Respondents ... Mr.S.Senthilnathan for R1.
... Mr.Arun Kumar for R2.

JUDGEMENT

Aggrieved by the impugned award dated 06.02.2019 passed by the Motor Accidents claims Tribunal, IV Court of Small Causes, Chennai in



C.M.A.No.692 of 2020

MACTOP No.1505 of 2016, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 09.09.2013, when the petitioner was riding a Two Wheeler bearing Reg.No.TN-19-W-3955, at Vandavasi Road towards Sethupakkam Village, a Mahindra Van bearing Regn. No.TN-25-AZ-5554 which came in the same direction in a rash and negligent manner, dashed against the Two Wheeler of the petitioner, thereby the petitioner suffered grievous injuries all over the body. Therefore, the petitioner has filed a petition claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him under various heads. After adjudication, the Tribunal awarded a sum of Rs.2,73,472/- with an interest @ 7.5% p.a. Aggrieved by the quantum of compensation awarded by the Tribunal, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner submitted that when the Tribunal has accepted that the van was driven in a rash and negligent manner which was the cause for the accident, the compensation awarded by the Tribunal is grossly inadequate. At the time of accident, the petitioner was



C.M.A.No.692 of 2020

earning a sum of Rs.15,000/- per month and his income was affected during the period in which he was under treatment which was purely on account of the said accident. Though, the Doctor assessed 25% disability which was not considered by the Tribunal and the compensation awarded under the head 'Disability' by adopting a sum of Rs.3000/- per percentage by fixing the disability at 15% is wholly inadequate. Further, the compensation awarded under other heads are also minimal. Hence the compensation awarded by the Tribunal requires and enhancement.

4. Per contra, learned counsel appearing for the 2nd respondent/insurance company submitted that second respondent/Insurance Company submitted that though it is the claim of the petitioner that he was earning a sum of Rs.15,000/- per month, no proof of income has been produced by the petitioner in order to substantiate the said claim. Insofar as the claim of compensation towards disability, the Tribunal has rightly awarded a sum of Rs.3000/- per percentage of disability which is reasonable and the same does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.



C.M.A.No.692 of 2020

5. 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.

6. 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. It is the claim of the petitioner that the compensation awarded by the Tribunal under various heads is grossly inadequate which requires enhancement. Insofar as the claim of compensation under the head of 'Loss of Earning' and 'Disability', this Court is not inclined to interfere with the compensation awarded under the said heads as it is evident from the materials available on record that the petitioner has not produced any proof with regard to the income earned and also the disability suffered by the petitioner. In the absence of any proof, the petitioner cannot seek enhancement of compensation under the said heads, more so, when the Tribunal has assessed the disability at 15%.



C.M.A.No.692 of 2020

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7. Further, the Tribunal had awarded a sum of Rs.20,000/- towards Transportation and extra nourishment; Rs.5000/- towards attender charges; Rs.93,472/- towards Medical Expenses; Rs.50,000/- towards Damages for pain, suffering and trauma and Rs.30,000/- towards Loss of Amenities. This Court finds that the compensation awarded under above heads is just and reasonable and no enhancement of compensation could be granted under the said heads considering the nature of injuries suffered by the claimant. Hence the appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed and the Judgment and Decree dated 06.02.2019 made in M.C.O.P.No.1505 of 2016 on the file of the IV Court of Small Causes (Motor Accident Claim Tribunal), Chennai stands confirmed. There shall be no order as to costs.

29.11.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

Page No.5 of 8



C.M.A.No.692 of 2020

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To

1. Motor Accidents claims Tribunal,
IV Court of Small Causes,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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C.M.A.No.692 of 2020



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C.M.A.No.692 of 2020

M.DHANDAPANI, J

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C.M.A.No.692 of 2020

29.11.2023