



C.M.A.No.4499 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4499 of 2019

Velu

... Appellant/Petitioner

Vs

1.Baskar

2.Sriram General Insurance Co.Ltd.

No.66, 2nd Floor, City Centre Complex,

Thirumalai Pillai Road

Chennai-600 017.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.03.2019 made in M.C.O.P.No.120 of 2014 on the file of the Motor Accidents Claims Tribunal (Sub Judge Arakkonam).

For Appellant ... M/s.V.Parivallal

For Respondents ... R1- Exparte
... Mr.K.Poomalai for R2

JUDGEMENT



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Assailing the impugned award of the Motor Accidents Claims Tribunal, Sub Judge, Arakkonam in M.C.O.P.No.120 of 2014, the claimant is before this Court seeking enhancement of compensation.

2. On 17.01.2014 at about 11.30 a.m, when the petitioner was riding his motor cycle bearing Reg.No.TN 04 AA 6118 from east to west direction at Arakkonam to Sholinghur Road, opposite to Gudalur Burial Ground, within Kondapalayam Police Station limits, the van bearing Reg.No.TN 23 TN 8592 belonging to the 1st respondent which came in the opposite direction, driven by its driver in a rash and negligent manner, dashed against the petitioner's motor cycle, as a result of which, the petitioner was thrown out and thereby sustained grievous injuries. Hence, the petitioner had filed a claim petition claiming a total compensation to the tune of Rs.20,00,000/- under various heads. After adjudication, the Tribunal awarded a sum of Rs.3,01,935/- with an interest of 7.5% p.a. Challenging the same, the claimant is before this Court.

3. Learned counsel appearing for the Appellant submitted that when the Tribunal has accepted that the van was driven in a rash and negligent manner



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which was the cause for the accident, however, the compensation awarded by the Tribunal is grossly inadequate. At the time of accident, the claimant was earning a sum of Rs.15,000/-, however, his income was affected during the period in which he was under treatment which was purely on account of the said accident. Further, the Tribunal has not awarded any compensation under the head of disability. Hence the compensation awarded by the Tribunal requires reconsideration and enhancement.

4. Per contra, learned counsel appearing for the 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 under the head of disability, the petitioner has not produced the disability certificate. In the absence of any proof, the petitioner cannot seek any compensation under the said heads. Further, the compensation awarded under the other heads are just and reasonable and the award of the Tribunal does not require any interference.



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5. This Court, heard 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. It is further claimed that no compensation has been awarded under the head 'disability' and 'Loss of Income'. However, 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 appellant. In the absence of any proof, compensation cannot be awarded under the said heads.

7. Further, the Tribunal had awarded a sum of Rs.15000/- towards Transport to Hospital; Rs.1,76,935/- towards Medical Expenses and Rs.1,00,000/- towards Pain and suffering. This Court finds that the



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compensation awarded under above heads are also just and reasonable and the same does not require any interference. Hence, this Court is of the opinion that the appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 06.03.2019 made in M.C.O.P.No.120 of 2014 on the file of the Motor Accidents Claims Tribunal cum Additional District Judge, Sub Judge, Arakkonam is confirmed. There shall be no order as to costs.

03.10.2023

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

NHS

To

1. Motor Accidents Claims Tribunal,
Sub Judge,
Arakkonam.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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