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C.M.A.No.2567 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2567 of 2023

M.Kumar

... Petitioner/Appellant

Vs.

1. K.Vivek

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

2. United India Insurance Co. Ltd.

Sillingi Building, 4th Floor,

No.134, Greams Road,

Chennai – 600 006.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside and enhance the award against the judgment and decree dated 18.04.2023 and made in M.A.C.T.O.P.No.6701 of 2018 on the file of the Motor Accident Claims Tribunal Chennai (In the IV Court of Small Causes, Chennai).

For Appellant : Ms.A.Subadra



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JUDGEMENT

The Civil Miscellaneous Appeal is filed to set aside and enhance the award against the judgment and decree dated 18.04.2023 made in M.A.C.T.O.P.No.6701 of 2018 on the file of the Motor Accident Claims Tribunal Chennai (In the IV Court of Small Causes, Chennai).

2. It is the case of the appellant that on 18.09.2018 at about 11:15 hours, due to the rash and negligent driving of the Driver of the bus bearing registration No.TN-25-M-5335, the appellant fell down from the bus, thereby he sustained grievous injuries. While so, he filed a claim petition before the Tribunal in M.C.O.P.No.6701 of 2018 claiming compensation to the tune of Rs.10,00,000/- and the Tribunal awarded a sum of Rs.2,91,000/- in favour of the claimant. Not satisfied with the compensation awarded by the Tribunal, the claimant / appellant filed the present appeal.

3. The learned counsel for the appellant submits that though the



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Tribunal has awarded Rs.5000/- at the rate of per percentage for the accident occurred in the year 2016, however, in the present case on hand, the accident occurred only in the year 2018 and the Tribunal ought not to have awarded Rs.5000/- at the rate of per percentage of disability and awarded a sum of Rs.1,55,000/- for 31% of disability, which is on the lower side, and the same may be re-determined by this Court. More so, the other heads awarded by the Tribunal are also on the lower side. Accordingly, he prayed for appropriate enhancement of compensation in favour of the appellant.

4. Heard the learned counsel for the appellant and perused the materials placed on record.

5. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/Insurance Company is with regard to the quantum of compensation awarded by the Tribunal. On a perusal of the award passed by the Tribunal, reveals that the Medical Board assessed and fixed the disability of claimant at 31% and the Tribunal has taken the



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entire percentage of disability and awarded the compensation.

Considering the nature of injuries, this Court finds that the award passed by the Tribunal under the head of disability is just and reasonable. As far as the other heads are concerned, this Court finds that the compensation awarded for the said heads are just and proper. More so, in the absence of any proof of income, the Tribunal has awarded a sum of Rs.2,91,000/- towards compensation, which is just and reasonable.

6. In the result, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

18.10.2023

Index : Yes / No

Speaking order / Nonspeaking order

Netrual Citation Case : Yes / No

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To

- 1.The Motor Accident Claims Tribunal Chennai (In the IV Court of Small Causes, Chennai)
- 2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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