



C.M.A.No.3165 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3165 of 2017

1. K.Saravanabavan (died)

2. Harish Kumar

3. V.S.Deepa

(Appellants 2 & 3 brought on record as Lrs of
the deceased sole petitioner viz., Saravanabavan
vide Court order dated 19.07.2022 made in
CMP No.11533 of 2022 in CMA No.3165 of 2017)

... Appellants/Petitioners

Vs

1.M.Ramu

2.United India Insurance Company Ltd.,
Motor Third Party Claims Office,
No.38, Anna Salai, IIIrd Floor,
Chennai-2

... Respondents/Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking enhancement of compensation in the Judgment and Decree dated 11.08.2016 made in M.C.O.P.No.282 of 2004 on the file of MACT/IV-Small Causes Court at Chennai.

For Appellants ... M/s.MA.P.Thangavel

For Respondents ... Notice dispensed with
vide order dated 24.11.2017 [R1]

JUDGEMENT

Aggrieved by the impugned award dated 11.08.2016 passed by the Motor Accident Claims Tribunal, IV-Small Causes Court, Chennai made in M.C.O.P.No.282 of 2004, the present appeal has been filed by the 1st Appellant seeking enhancement of compensation.

2. The Appellants 2 & 3 are the son and daughter of the deceased claimant. On 11.08.2003, when the petitioner was riding his motorcycle bearing Reg.No.TN-04-E-0768, from north to south at Anna Salai road near the junction of Cenotaph road, a car bearing Reg.No.TN-10-B-7557 which



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came in the opposite direction, belonging to the 1st respondent and insured with the 2nd respondent/Insurance Company, driven by its driver in a rash and negligent manner, dashed against the petitioner's motorcycle thereby the petitioner sustained grievous injuries. Aggrieved by which, the petitioner filed a claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him under various heads before the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai. After adjudication, the Tribunal has awarded a sum of Rs.46,500/- as compensation. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.

3. Learned counsel appearing for the claimant/petitioner submits that the compensation awarded by the Tribunal under various heads is grossly inadequate and the same requires to be reconsidered and a higher compensation ought to have been awarded to the claimant. Further, the Tribunal has not awarded any compensation under the head 'Loss of Disability'. Hence the compensation awarded by the Tribunal requires



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reconsideration and enhancement.

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4. Per contra, learned counsel appearing for the insurance company submitted that the Tribunal, after taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference. 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 head. Further, the compensation awarded under the other heads are just and reasonable and the award of the Tribunal does not require any interference. Accordingly, he prayed for dismissal of the appeal.

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



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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'. However, it is evident from the materials available on record that the petitioner has not produced any proof with regard to the disability suffered by the claimant. In the absence of any proof, compensation cannot be awarded under the said head.

7. Further, the Tribunal had awarded a sum of Rs.7,500/- towards Pain and Suffering; Rs.1,000/- towards Extra nourishment; Rs.1,000/- towards Transport to Hospital; Rs.500/- towards Damages to clothes; Rs.800/- towards Attender charges; Rs.30,593/- towards Medical expenses and Rs.5,000/- towards Future Medical Expenses. This Court finds that the compensation awarded under above heads are also just and reasonable and the same does not require any interference. Therefore, this Court is of the opinion that the appeal is liable to be dismissed.



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M.DHANDAPANI, J

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8. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 11.08.2016 made in M.C.O.P.No.282 of 2004 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai is confirmed. There shall be no order as to costs.

18.10.2023

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

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To

1.The Motor Accident Claims Tribunal,
IV-Small Causes Court,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.

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