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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1922 of 2019

Sathish

... Petitioner/Appellant

versus

1. C.Madhu
2. The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office,
D.No.11, First Floor,
Peramanur Main Road,
Salem-4.

.... Respondent

PRAYER: Civil Miscellaneous Appeal filed aggrieved by the award and decree dated 04.02.2011 in MCOP.No.2196 of 2003 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Krishnagiri.

For appellant : Mr.Mukund R.Pandian

For Respondent : Mr.M.J.Vijayaraghavan R2

R2 Not ready notice

J U D G M E N T

Assailing the judgment and decree passed by the Tribunal in and by which the Tribunal had awarded lower compensation, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.



WEB COPY 2. On 2.6.2002 , when the claimant was travelling in the tractor trailer bearing Regn. No.TN-29-W-7087, the lorry bearing Regn. No.TAL-7774, belonging to the 1st respondent and insured with the 2nd respondent, driven driven by its driver in a rash and negligent manner, dashed against the tractor-trailer in which the injured claimant was travelling in which the claimant suffered grievous injuries on his right arm and the claimant was admitted at the Government Hospital, Hosur, from where he was shifted to Bangalore Bowring Hospital, Bangalore. Since the claimant was not able to do the regular work after suffering the injuries, the claimant claimed a sum of Rs.4,00,000/- under various heads.

3. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and marked Exs.A-1 to A-6. No witnesses were examined nor any documents were marked on the side of the respondents. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.70,000/- under various heads. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.



4. Learned counsel appearing for the claimant submitted when the Tribunal has accepted that the lorry was driven in a rash and negligent manner and was the cause for the accident and when the doctor, P.W.2, had clearly deposed about the injuries suffered by the claimant, the compensation awarded by the Tribunal is grossly inadequate. When P.W.2 has clearly deposed about the disability suffered by the claimant, the amount of Rs.2000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the heads pain and suffering, nutrition and transportation is also minimal, which requires enhancement.

5. Per contra, learned counsel appearing for the respondent/insurance company submitted that the amount of Rs.2000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement.

6. 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.



7. 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. In this regard, the crucial evidence is that of P.W.2, the doctor, who has deposed that the claimant had suffered 40% permanent disability. The Tribunal, by adopting Rs.2000/- per percentage of disability has awarded a sum of Rs.40,000/- by fixing the disability at 20%. The doctor had opined that the injury suffered by the claimant would result in the claimant not able to perform strenuous work. Though the doctor had quantified the disability at 40%, however, considering the injuries, the Tribunal had fixed the disability at 20% and awarded a sum of Rs.2000/- per percentage of disability, which cannot be said to be excessive, as the Tribunal, appreciating the evidence of the doctor, had fixed the per percentage at Rs.2000/- after reducing the disability to 20%. Therefore, this Court feels that no interference is warranted with the said compensation awarded.

8. Further, the Tribunal had awarded a sum of Rs.10,000/- towards pain and suffering; Rs.2000/- towards nutrition; Rs.2,000/- towards transportation and Rs.15,000/- towards future medical expenses. This

Court finds that the compensation awarded under the heads nutrition,



transportation and future medical expenses are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and suffering is concerned, this Court feels that a sum of Rs.15,000/- would be just and reasonable compensation.

9. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads are modified as under :-

Head of Compensation	Amount awarded by Tribunal	Amount awarded by this Court
Disability @ Rs.2000/- per percentage	Rs.40,000/-	Rs.40,000/-
Pain and Suffering	Rs.10,000/-	Rs.15,000/-
Nutrition	Rs.2,000/-	Rs.2,000/-
Future Medical Expenses	Rs.15,000/-	Rs.15,000/-
Transportation	Rs.2,000/-	Rs.2,000/-
Attendar charges	Rs.1,000/-	Rs.1,000/-
TOTAL	Rs.70,000/-	Rs.75,000/-

10. In the result, the appeal is allowed in part with the aforesaid modification in the judgment and decree passed by the Tribunal. However, the interest awarded at 6% p.a., stands modified to 7.5.% p.a. from the date of petition till the date of realization. The respondents 1 and 2 are jointly and severally liable to pay the modified compensation to the appellant. The amount shall be deposited before the Tribunal within a period of four weeks from the date of receipt of a copy of this order.



Upon receipt of such payment, the Tribunal shall deposit the compensation to the bank account of the Appellant through RTGS within a period of two weeks thereafter.

15.11.2023

Index : Yes/no
rli

To

The Judge,
Motor Accident Claims Tribunal/Principal District Judge,
Krishnagiri.



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M.DHANDAPANI.,J.

RLI

C.M.A.No.1922 of 2019

DATED 15.11.2023