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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3490 of 2019

Lakshmaiah

.. Appellant

Vs.

1. Narayanan

2. The IFFCO Tokyo General Insurance Co. Ltd.,
Rep. By its Branch Manager,
Iffco Tower, Plot – 4,
Section 2-9, Gungaon,
Hariyana-122 001.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment, dated 04.03.2011 in MCOP. No.162/2006 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Hosur and enhance the award amount.

For Appellant : Mr.M.Selvam

For Respondents : Mr. J.Chandran R2
R1- Disd vide order dated 13.02.2023

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree dated 04.03.2011 in MCOP. No.162/2006 on the file of the Motor



Accident Claims Tribunal cum Subordinate Judge, Hosur and enhance the award amount.

2. It is the case of the appellant that the appellant is working as a coolie. on 09.05.2006, after finishing his work, when the appellant was returning to his home, walking near Muthurayan GP Road, at the time, the mini door auto bearing Registration No.TN 24 Y 1215, driven the vehicle in a rash and negligent manner, hit the appellant. Due to which, the appellant sustained grievous injuries and fractures. Immediately, he have taken to the private Hospital as in-patient. The accident had happened only due to the rash and negligent driving of the driver of the mini door auto. Hence, the appellant herein, has filed a Claim Petition before the Motor Accident Claims Tribunal, Hosur against the owner and insurer of the lorry, claiming Rs.5,00,000/- as compensation under various heads. The Tribunal, after considering the pleadings, oral and documentary evidence, awarded a sum of Rs.10,000/- to the claimant as compensation.

3. For enhancement of compensation, the appellant-claimant has filed the present appeal challenging the order dated 04.03.2011 in



M.C.O.P.No.162 of 2006.

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4.The learned counsel appearing for the appellant contended that due to the accident the appellant's right leg patella bone was fractured and he sustained injuries in his body. Immediately, he was taken to the Srinivasa Ortho Hospital, Hosur. Due to the accident, he has suffered permanent disability, for which, he could not able to do his work properly. The Tribunal has failed to award any compensation under pain and sufferings, transportation, extra nourishment and damages to clothes and articles and awarded only a sum of Rs.10,000/- as compensation to the claimant, which is very low. Hence, the appellant prayed to enhance the compensation, awarded by the Tribunal.

5.Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the first respondent had no valid driving license to drive the vehicle. The respondent denied the age, income and occupation of the appellant. The appellant has not produced period and manner of the treatment and also he has not filed any documentary evidence regarding his injuries, treatment and expenses in



support of the claim. Further, the learned counsel submitted that the entire allegation of the appellant is not true. To get a large amount of compensation, he has filed this case. However, the Tribunal has awarded a sum of Rs.10,000/- on higher side and hence, he prayed for dismissing the appeal.

6. Heard the learned counsel for the appellant as well as the second respondent and also perused the materials available on record.

7. The appellant is the claimant and the second respondent is the Insurance Company. The case of the appellant is that on 12.07.2010 at about 8.00 P.M., the appellant was traveling in the bus bearing Registration No.TN 33 AA 1919 as a passenger from Kavindapadi to Erode. The bus was driven by the driver viz., first respondent, in a rash and negligent manner and suddenly, the bus was capsized at Chettipalayam Bridge. Due to the accident, the appellant's right clavicle bone was fractured and she sustained injury all over her body.

8. From the materials on record, it is seen that the appellant in the FIR



as well as in the claim petition has stated that the appellant was returning to his home after finishing his work, the driver of the mini door auto dashed against the claimant, for which, he sustained injuries due to the accident and sustained injuries. In the claim petition, the appellant has stated that he took treated and admitted in the private hospital as in-patient. But the appellant has not produced any documents relating to treatment taken by him. The Tribunal, considering these fact, awarded a sum of Rs.10,000/- to the claimant. The Tribunal has given valid and cogent reason for awarding the said claim as compensation. In view of the same, there is no reason to interfere with the said finding given by the Tribunal.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

09.11.2023

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Index : Yes

Speaking Order : Yes

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M.DHANDAPANI,J.

Rli

To

The Judge, Motor Accident Claims Tribunal cum
Subordinate Judge, Hosur

C.M.A.No.3490 of 2019

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