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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1456 of 2019

V.Subbaraman ... Appellant

Vs

1. M.Rajesh Khanna

2. M/s.United India Insurance Co. Ltd.,
C/o.Motor 3rd Party Claims office,
No.38, Anna Salai,
Chennai-2.

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the award passed by the Motor Accidents Claims Tribunal (Small Causes Court-V), Chennai in MCOP. No.3397 of 2004 dated 03.09.2010.

For Appellant : Mr.T.G.Balachandran

For Respondents : R1 dispense with
R2 – M/s.R.Vijaya Kamala

J U D G M E N T

This appeal has been filed by the appellant/claimant against the award passed by the Motor Accidents Claims Tribunal (Small Causes Court-V) in MCOP. No.3397 of 2004 dated 03.09.2010.



2. It is the case of the appellant/claimant that on 11.04.2004 at about 14.45 hours, the appellant was proceeding in motor cycle No.TN 04 W 1951 at oliver Road near the junction Kennedy first street, Mylapore, at that time, an Ambassador car No.TSH 8989 driven by its driver, in a rash and negligent manner, dashed against the appellant/claimant. Due to the accident, the appellant sustained multiple injuries all over his body. Thereafter, the appellant has filed a claim petition before the Tribunal against the respondents, claiming a sum of Rs.10,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the appellant has examined two witnesses and marked as many as 16 documents viz., Exs.P1 to P16. On the side of the respondents, no witness was examined and one document was adduced.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has 4,07,000/- as compensation to the claimant.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this



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6. Learned counsel for the appellant submitted that due to the accident, the appellant sustained grievous injuries due to which, the appellant is not able to do his work and therefore, his earning power has been affected. Without considering the same, the Tribunal has awarded the compensation, which is very less. Further the amount awarded towards pain and sufferings is low and other heads awarded by the Tribunal are very meager. Hence, the learned counsel for the appellant prays for enhancement of compensation.

7. The learned Standing counsel for the respondent submitted that the Tribunal has properly considered the issue and rightly passed the award, which does not warrant any interference.

8. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the available materials on record before this Court.

9. The factum of the case are not disputed by the parties. It is the main grievance of the appellant that the amount awarded by the Tribunal is low and the same has to be enhanced for the injuries sustained by him.



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10. On perusal of the award, it is seen that the accident had happened in the year 2014. At the relevant point of time, for the injuries, a sum of Rs.2,000/- per percentage has awarded for permanent disability. In the present case on hand, the appellant sustained partial disability not a permanent disability. Thereby, the Tribunal has rightly not followed multiplier method, which does not warrant any interference. In respect of the other heads awarded by the Tribunal are also just and reasonable, which need not be interfered with. In view of the same, the appeal filed by the appellant is misconceived and the same is liable to be dismissed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The Insurance company is directed to deposit the award amount, less the amount, if any, already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of the same, the appellant shall withdraw the same after making appropriate petition before the Tribunal.

19.12.2023

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Index : Yes/no

Internet : Yes/no

Speaking Order/Non speaking order



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To

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The Motor Accidents Claims Tribunal (Small Causes Court-V), Chennai.



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M.DHANDAPANI.,J.

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