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C.M.A.No.1126 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.1126 of 2019

R.Karthikeyan

... Appellant

-VS-

1.Mrs.M.Poongodi

2.M/s.New India Assurance Co., Ltd.,
C/o.Motor Third Party Claims Offices,
No.43, Moore Street,
Chennai – 600 001.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.2749 of 2004 on the file of the Motor Accident Claims Tribunal, Small Causes Court Judge (Small Causes Court – V), Chennai, dated 20th day of January 2009.

For Appellant : Mr.T.G.Balachandran

For Respondent
(For R2) : Mr.J.Chandran

(For R1) : Left

J U D G M E N T

This appeal has been filed by the appellant/claimant against the Judgment and Decree made in M.C.O.P.No.2749 of 2004 on the file of the Motor Accident Claims Tribunal, Small Causes Court Judge (Small Causes Court –



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compensation.

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2. It is the case of the appellant that on 27.01.2004 at about 5.20 hours when the appellant aged about 34 years was travelling in van bearing Reg. No.TN 20 Y 4788 driven by its driver and insured with the second respondent, in a rash and negligent manner and hit against the lamp post, due to which, the appellant sustained grievous injuries all over his body and immediately after the accident, he was admitted in the hospital and died. Thereafter, the appellant had filed a claim petition before Tribunal claiming compensation of Rs.3,50,000/-. After adjudication, the Tribunal has awarded a sum of Rs.1,27,500/- to the claimant for the injuries.

3. The appellant/claimant has filed the present appeal seeking enhancement of compensation.

4. The learned counsel for the appellant submitted that the appellant was working as Junior Executive and drawing a sum of Rs.13,741.75/- per month as salary. Without considering the same, the Tribunal has fixed loss of income which was very low and incorrect. Further the Tribunal ought to have awarded compensation towards damages to clothes. Therefore, this Court may interfere with the impugned award and modify the same.



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5. Per contra, the learned counsel appearing for the second respondent- Insurance Company contended that due to rash and negligent driving of the driver, the accident had happened. The compensation awarded by the Tribunal in favour of the appellant is just and reasonable. Hence, this Court may dismiss the petition.

6. Heard the learned counsel for either side and perused the materials available on record.

7. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

8. According to the appellant, the first respondent driving a van in rash and negligent manner and dashed against the appellant and therefore, he sustained injuries. It is the main ground of the appellant that the Tribunal has awarded very meager amount in respect of loss of earning from the treatment period. In order to prove the income, he has produced the salary slip before the Tribunal, Even then the Tribunal has fixed a sum of Rs.4000/- per month which is very meager. This Court is inclined to interfere with the same and fixed a sum



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of Rs.6000/- per month and awarded Rs.30,000/- and also awards Rs.500/- towards damages to clothes which he is entitled for. Further, the compensation awarded under the pain and suffering, this Court enhances at Rs.25,000/-. The other heads awarded in favour of the appellant by the Tribunal is just and reasonable and therefore, this court is not inclined to interfere with in respect of other heads. Accordingly, the order passed by the Tribunal stands modified as follows:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of earning	20,000	30,000
Transportation	5000	5000
Extra nourishment	10,000	10,000
Damages to clothing and articles		500
Medical expenses	38,500	38,500
Pain and sufferings	5,000	25,000
Permanent disability	54,000	54,000
Total	1,27,500/-	1,63,000/-

9.In the result, the Civil Miscellaneous Appeal is allowed with following directions:

(i) The Insurance Company is directed to deposit balance modified award amount of Rs.1,63,000/- with 7.5% interest, from the date of claim petition till date of deposit in the credit of claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. and

(iii) on such deposit, the appellant / claimant is



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*permitted to withdraw the same, on making proper application
before the Tribunal.*

No costs.

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Rli

Index: Yes/No

NCS : Yes/No

To

The Small Causes Court Judge,
(Small Causes Court – V)
Motor Accident Claims Tribunal,
Chennai.



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M.DHANDAPANI, J.

Rli

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