



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2249 of 2019

G.Karthick

.. Appellant

Vs.

1. Bishnu Prasad Agarwal

2. Reliance General Insurance Co. Ltd.,
Reliance House, TP Cell
Nungambakkam, Chennai-34.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment, dated 29.02.2016 in MACT.OP.No.499 of 2014 on the file of the II Judge, Motor Accident Claims Tribunal, (Small Causes Court) Chennai.

For Appellant : Mr.C.Munusamy

For Respondents : Mr. E.Rajadurai
For M/s.B.Gopalan Associates

J U D G M E N T

This Civil Miscellaneous Appeal has been filed seeking enhancement of compensation in the decree and judgment, dated 29.02.2016 in MACT.OP.No.499 of 2014 on the file of the II Judge, Motor Accident



Claims Tribunal, (Small Causes Court) Chennai.

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2. It is the case of the appellant that on 27.11.2013 at about 18.40 hours when the appellant was riding on the motor cycle bearing Registration No.TN 20 AV 6705 on Nungambakkam College road in front of standard chartered bank outside gate, at the time, the motor cycle bearing Reg. No.TN 07 S 1247 came rash and negligence manner and endangering public safety and dashed against the appellant vehicle. As a result, the appellant fell down and also sustained grievous injuries. The accident occurred due to the negligence of the rider of the motor cycle. Hence, the appellant herein, has filed a Claim Petition before the Motor Accident Claims Tribunal, claiming Rs.27,00,000/- as compensation under various heads. The Tribunal, after considering the pleadings, oral and documentary evidence, awarded a sum of Rs.6,88,000/- to the claimant as compensation.

3. For enhancement of compensation, the appellant-claimant has filed the present appeal challenging the award passed by the Tribunal.

4. The learned counsel appearing for the appellant contended that the



Doctor/PW3, who treated the appellant, assessed 45% of permanent disability. However, the Tribunal erred in awarding lesser sum towards permanent disability, which is unsustainable one. Due to the accident, he has suffered permanent disability, for which, he could not able to do his work properly. The Tribunal has awarded lesser compensation under loss of amenities, transportation, extra nourishment and pain and sufferings, which are 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 due to rash and negligent driving of the appellant, the accident had happened and therefore, he is responsible for the accident. 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 compensation 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.



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7. The appellant is the claimant and the second respondent is the Insurance Company. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. The main grievance of the appellant is that the Tribunal has fixed very less amount for disability.

8. From the materials on record, it is seen that the accident had happened in the year 2013. At the relevant point of time, for the disability, Rs.3000/- has been awarded per percentage. The Tribunal has also rightly awarded compensation under disability, which cannot be interfered with. The Tribunal has given valid and cogent reason for awarding the said claim as compensation. The amount awarded under other heads also just and reasonable and the same is confirmed. 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. The second respondent is directed to deposit the award amount as awarded by the Tribunal along with interest at 7.5% p.a., from the date of claim petition till date of deposit, less the amount, if any, already deposited, to the



credit of the claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

22.11.2023

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Index : Yes

Speaking Order : Yes

To

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

M.DHANDAPANI,J.



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