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C.M.A.No.4297 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.4297 of 2019

R.Rathesh
S/o.Ramanujam
Petitioner

... Appellant /

-Vs-

1. K.Valaiyapathy
2. National Insurance Company,
Motor Third Party Claim Cell,
No. 751, Mount Road, 3rd floor,
Chennai – 600 002.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No.1659 of 2014 dated 18.07.2018 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1) Small Causes Court, Chennai.

For Appellant : Ms.D.Pooja
for Mr.K.Varadha Kamaraj

For Respondents : Mr.R.Nithish Kumar for
Mr.R.Ravichandran for R2
R1 - Not Ready Notice



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J U D G M E N T

WEB COPY Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.

No.1659 of 2014 filed by the claimant, the petitioner has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. The Petitioner alleged to be earning a sum of Rs.12,000/- per month, met with an accident on 05.02.2013 when the petitioner was riding the motorcycle, an auto driven by its driver in a rash and negligent manner, dashed against the petitioner in which the petitioner is alleged to have suffered injuries for which he was admitted in the hospital and due to the loss suffered on account of the accident, the claimant, claiming compensation for the injuries suffered and also for loss of income, had filed the claim petition. The said claim was resisted by the Insurance Company / second respondent.

3. The claimant had filed the claim petition claiming compensation of a sum of Rs.3,00,000/-. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to 15 were marked. The Insurance Company did not let in any evidence either orally or documentary. The Tribunal, considering the oral and documentary evidence, adduced by the claimant and the Insurance Company, awarded a sum of Rs.72,000/-.



4. The learned counsel appearing for the claimant / petitioner submits that the compensation awarded under various heads requires to be reconsidered and a higher compensation ought to have been awarded to the claimant. It is the further submission of the learned counsel that the monthly income fixed is on the lower side, which requires to be reconsidered.

5. The first respondent remained exparte before the Tribunal.

6. The learned counsel appearing for the second respondent / Insurance Company submitted that the Tribunal, taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference.

7. The finding of the Tribunal regarding the negligence has not been questioned by the appellant and the claimant has filed this appeal questioning only the quantum of compensation. It is seen from the records that though the doctor has assessed the disability at 10%, the Tribunal has fixed the disability at 5%. Considering the nature of injuries, this Court is of the view that the disability ought to have been fixed at 10% and hence, the compensation awarded under the head disability is enhanced to Rs.30,000/- (10% X Rs.3,000/-). Further, the compensation of Rs.15,000/- under the head pain and



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sufferings is on the lower side and the same is enhanced to Rs.25,000/-. Further, the Tribunal has granted a sum of Rs.5992/- under the medical expenses and the same is rounded off to Rs.6,000/-. Further, a sum of Rs.10,000/- awarded under the head loss of future prospectus is not justified since the claimant suffers only 10% of disability and hence, the same is set aside. The compensation awarded under the other heads are just and the same does not call for interference.

8. In the above circumstances, the compensation awarded under the heads by the Tribunal is modified as under :-

Head of Compensation	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
Disability	Rs.15,000/-	Rs.30,000/-
Pain and sufferings	Rs.15,000/-	Rs.25,000/-
Extra nourishment	Rs.5,000/-	Rs.5,000/-
Transportation	Rs.5,000/-	Rs.5,000/-
Medical Expenses	Rs.5,992/-	Rs.6,000/-
Loss of earnings	Rs.16,000/-	Rs.16,000/-
Loss of future prospectus	Rs.10,000/-	---
Total	Rs.71,992 rounded off to Rs.72,000/-	Rs.87,000 /-

9. In the result, this civil miscellaneous appeal is allowed in part and



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the compensation awarded by the Tribunal at Rs.72,000/- is hereby enhanced to Rs.87,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.1659 of 2014 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1), Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making proper application before the Tribunal. No costs.

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Index: Yes / No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

vji

To



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1. The Motor Accident Claims Tribunal,
(Special Sub Court No.1)
Small Causes Court, Chennai.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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M. DHANDAPANI, J

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