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C.M.A.No.2525 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE MR.JUSTICE K. RAJASEKAR

C.M.A.No.2525 of 2021

D. Mohanavel

... Appellant

Vs

1. G. Ruksana

2. National Insurance Co.Ltd.,
3rd Floor,
No.751, Anna Salai,
Chennai 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 27.01.2020 made in MACTOP.No.701 of 2015 on the file of the Special Sub Court - 2, Motor Accident Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Mr.C.Munusamy

For Respondents : R1 - NDW
Mr.R.Ravichandran for R2



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JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation awarded by the order dated 27.01.2020 made in M.A.C.T.O.P.No.701 of 2015, on the file of the Special Sub Court - 2, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

2. The appellant is the claimant filed claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.12.2014.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the Yamaha Two Wheeler belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.2,11,600/- as compensation to the appellant and granted right to recover the compensation from the owner of the vehicle/1st respondent.



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4. Not being satisfied with the compensation awarded by the Tribunal, the appellant has come out with the present appeal, seeking enhancement of the same.

5. Mr.C.Munusamy, learned counsel appearing for the appellant contended that the medical board has certified 6% disability. The appellant sustained grievous injuries as post traumatic stiffness left knee due to fracture shaft of femur left side, implant removal done. The Tribunal ought to have applied multiplier method for awarding compensation for disability. The Tribunal ought to have awarded a sum under the head loss of earning capacity. The Tribunal did not consider the fact that the injured was working as Tailor and earning not less than Rs.15,000/- p.m. He could not continue his avocation for his livelihood owing to the serious injuries and erred in awarding only a sum of Rs.33,000/- towards loss of income during treatment period especially when he took inpatient treatment for months together. The amounts awarded by the Tribunal under various heads are meagre and prayed for enhancement of compensation.



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6. Per contra, Mr.R.Ravichandran, learned counsel appearing for the respondent-Insurance Company contended that the medical board has certified that the appellant has suffered only 6% disability. Considering the report of the medical board, the Tribunal has awarded compensation of Rs.18,000/- by granting Rs.3,000/- per percentage of disability. The appellant did not suffer any functional disability and he is not entitled to compensation by applying multiplier method. The amount awarded by the Tribunal under different heads are just compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well the learned counsel appearing for the respondent-Insurance Company and perused all the materials available on record.

8. The contention of the learned counsel appearing for the appellant is that the Tribunal ought to have applied multiplier method for awarding



compensation. According to the learned counsel for the appellant, due to fracture shaft of femur left side, implant removal done he is put to great discomfort. It is not the case of the appellant that due to injuries sustained by him, he is unable to do any work as he was doing earlier. It is also not the case of the appellant that due to the injuries, there is loss of earning capacity. From the materials on record, it is seen that the appellant was referred to medical board and after examining the appellant, the medical board has certified that disability of the appellant for whole body is 6%. The Tribunal considering the entire materials and evidence, did not apply multiplier method and awarded compensation at the rate of Rs.3,000/- per percentage of disability. Hence, there is no reason for adopting multiplier method for awarding compensation for disability. The amounts awarded by the Tribunal under different heads are just compensation and there is no reason for enhancement of compensation.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.2,11,600/- is hereby confirmed. The respondent-Insurance Company is directed to deposit the



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award amount with interest, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this order and recover the compensation from the owner of the vehicle/1st respondent. On such deposit, the appellant is permitted to withdraw the award amount along with accrued interest and costs, after adjusting the amount, if any, already withdrawn. No costs.

01.02.2024

dpq

Index: Yes/ No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The Special Sub Court - 2,
Motor Accident Claims Tribunal (Small Causes Court),
Chennai.
2. The Section Officer
V.R. Section, High Court of Madras.



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K. RAJASEKAR, J.

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