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C.MA.No.2312 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CMA.No.2312 of 2022

S.Sathishkumar

... Appellant

Vs.

1.S.Kamalakaran

2.ICICI Lombard General Insurance Co. Ltd.,

C/o.Motor III Party Claims Office,

Chottabai Centre, 140, Nungambakkam High Road,

Chennai - 34.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, pleased to prefer this appeal against the Judgment and Decree dated 18.04.2022 made in MCOP No.5699 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court II Judge, Court of Small Causes at Chennai.

For Appellant : Mr.T.G.Balachandran

For R1 : No appearance

For R2 : Mr.C.Ramesh Babu for A.Salomi



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JUDGMENT

WEB COPY This Civil Miscellaneous Petition is filed against the Judgment and Decree dated 18.04.2022 made in MCOP No.5699 of 2014 on the file of the Motor Accident Claims Tribunal, Special Sub Court II Judge, Court of Small Causes at Chennai.

2.This appeal is filed by the claimant/injured seeking enhancement of compensation for a sum of Rs.12,00,000/- under Section 166 of the Motor Vehicle Act and Rule 3 of the Motor Vehicle Rules for the injuries suffered by him in the motor accident, which occurred on 03.06.2014 at 17.00 hrs., while he was travelling as a pillion rider from T.Nagar to Ullagaram at Guindy Race Course Road near Race Course entrance in a two wheeler, due to the negligent driving of the first respondent.

3.The first respondent owner of the offending vehicle remained exparte. The claim petition was contested by the second respondent Insurance Company which filed a detailed counter denying all the allegations made in the claim petition apart from disputing the negligence, quantum and liability.



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4. Before the claims Tribunal, two witnesses were examined as PW1 and PW2 and Ex.P1 to Ex.P13 were marked. On the side of the respondents no oral evidence adduced and no documentary evidence marked. Ex.C1 marked as Court document.

5. The claims Tribunal, on assessment of the entire evidence on record, awarded a sum of Rs.3,55,523/- rounded off to Rs.3,55,600/- as compensation along with 7.5% interest per annum from the date of presentation of the petition till the date of realization. Aggrieved over the quantum of compensation, the claimant has come forward with this appeal.

6. The learned counsel for the appellant submitted that the appellant filed this appeal seeking enhancement of compensation on the ground that the claimant was not awarded compensation for the severe injury sustained by him. Further submitted that the compensation awarded on other heads were also very meager and hence he seeks for enhancement.

7. The learned counsel for the second respondent submitted that the



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claimant had referred to the Medical Board to assess his disability and the Medical Board specifically stated that the claimant had not sustained any disability. Since no disability is found, the Claims Tribunal based on the evidence placed on record has awarded the compensation under various heads consisting the nature of injuries sustained. The learned counsel for the second respondent also submitted that the award of the Tribunal was just, fair and reasonable and did not call for any interference in this appeal.

8.Heard both sides and perused the materials placed on record.

9.In this case, after accident the claimant was admitted into Sri Chakra Multispeciality Hospital, Chennai and the discharge summary, Ex.P4 shows that he had undergone treatment as in-patient from 04.06.2014 to 22.06.2014 and surgery was also conducted on 04.06.2014. In the Discharge summary it is stated that the claimant suffered with "Grade III Splenic injury with left renal injury with type II retro Peritoneal hematoma". Thereafter he was discharged from hospital and he was referred to the Regional Medical Board, Government Kilpauk Medical College Hospital, Chennai, to assess the disability. The Medical Board has opined that the claimant has not sustained any permanent



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disability. However, before the Claims Tribunal PW2, Doctor was examined and he has opined that due to the injury sustained, a surgery was conducted for removal of spleen. On considering the evidence of PW2 and in the light of the Judgment of this Court in the case of *The New India Assurance Co. Ltd., Vs. V.Sangita in C.M.A.Nos.1627 to 1629 of 2017 dated 05.06.2017*, the Claims Tribunal had considered the said Judgment and refused to grant compensation under the Head of disability stating that in the Judgment cited supra, the injured therein not only suffered removal of spleen but also suffered various multiple injuries. In the present case, the claimant has not sustained any other injury except the injury on his abdomen which leads to removal of spleen and the Claims Tribunal has awarded a sum of Rs.1,00,000/- towards loss of amenities, apart from that another Rs.50,000/- has been awarded under the Head pain and sufferings. Hence, I am not inclined to award any compensation under the head of disability and I am inclined to enhance the compensation under the head of loss of amenities from Rs.1,00,000/- to Rs.1,50,000/-. As far as other heads are concerned, this Court found that the award granted by the Claims Tribunal is just, fair and reasonable and the same is confirmed.

10.In the light of the said discussion, the award of the Claims Tribunal is



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modified as follows:

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S.No.	Various Heads	Award by the Tribunal (Amount in Rs.)	Award by this Court (Amount in Rs.)
1	Pain and Sufferings	Rs.50,000/-	Rs.50,000/-
2	Transportation	Rs.4,000/-	Rs.4,000/-
3	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
4	Medical Expenses	Rs.1,86,124/-	Rs.1,86,124/-
5	Attender Charges	Rs.5,400/-	Rs.5,400/-
6	Loss of Amenities	Rs.1,00,000/-	Rs.1,50,000/-
Grand Total		Rs.3,55,524/- rounded off to Rs.3,55,600/-	Rs.4,05,524/- rounded off to Rs.4,05,600/-

11.The second respondent is directed to deposit the entire compensation amount along with 7.5% interest from the date of the claim petition till the date of deposit, less the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment. The claimant is directed to pay the deficit Court fee on the enhanced compensation. On such deposit being made, the claimant shall be entitled to withdraw the same by making proper application before the Tribunal.



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12.In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

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Index: Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Motor Accident Claims Tribunal,
Special Sub Court II Judge,
Court of Small Causes at Chennai.
- 2.ICICI Lombard General Insurance Co. Ltd.,
C/o.Motor III Party Claims Office,
Chottabai Centre, 140, Nungambakkam High Road,
Chennai - 34.
- 3.The Section Officer,
V.R.Section,
High Court, Madras.



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K.RAJASEKAR, J.
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