



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.M.A. (MD) .No.823 of 2016

and

C.M.P. (MD) No.7659 of 2016

Helen Mary Stella

... Appellant/ Petitioner

Vs.

Preman (died)

1. The Managing Director,
S.E.T.C.,
Pallavan Salai,
Chennai.

2. Sukumar

3. Suman

4. Sudhan

(Respondents 2 to 4 are not necessary party.

Hence, the respondents 2 to 4 are given up)

...Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.27 of 2014 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Kanyakumari at Nagercoil, dated 26.08.2015.

For Appellant : Mr.T.Selvakumaran

For R-1 : Mr.P.Prabhakaran

JUDGMENT

This Civil Miscellaneous Appeal arose against the award passed in M.C.O.P.No.27 of 2014 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Kanniyakumari District at Nagercoil dated 26.08.2015.

2. The Tribunal passed the award under the following heads:-

Head	Amount awarded by the Tribunal
Transport Expenses	Rs. 42,500/-
Medical Expenses	Rs.1,39,500/-
Extra Nourishment	Rs. 5,000/-
Damage to cloth	Rs. 2,000/-
Pain and Suffering	Rs. 50,000/-
Loss of income for the treatment period	Rs. 50,000/-
Total	Rs. 2,89,000/-

The total compensation amount was awarded Rs.2,89,000/-

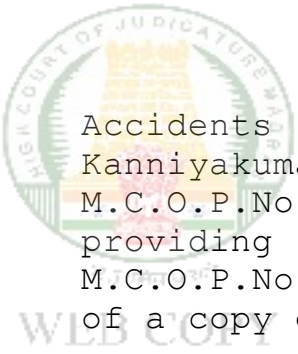
3. Aggrieved by the said award passed by the Tribunal in M.C.O.P.No.27 of 2014, the appellant/claimant has preferred the present Civil Miscellaneous Appeal before this Court.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent and perused the records.

5. The appellant would submit that the Disability Certificate could not be received at that time issued by the Medical Officer. Therefore, she was not in a position to mark the said document at the time of trial. Thereafter, she got the Disability Certificate issued by the medical officer. Therefore, the opportunity should be given to the appellant to place the said document before the Tribunal for getting the reasonable compensation to the claimant.

6. Per contra, the learned counsel for the first respondent would submit that an ex-parte decree has been passed by the Tribunal. Therefore, it is an admitted fact that the counter statement was not filed by the Transport Corporation before the Tribunal. In the event of allowing the Civil Miscellaneous Appeal and remanding back the matter to the Tribunal, an appropriate opportunity shall be given to the Transport corporation also to file the counter statement before the Tribunal. Further, the learned counsel has disputed the Disability Certificate issued by the Medical Officer.

7. By consent of the parties, without expressing any opinion on the merits of the case, the Civil Miscellaneous Appeal is remitted back to the file of the the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Kanniyakumari District at Nagercoil for fresh disposal and all the objections made by the Transport Corporation shall also be considered by the Motor Accidents Claims Tribunal at the time of hearing. The Motor



Accidents Claims Tribunal, (Chief Judicial Magistrate), Kanniyakumari District at Nagercoil, is directed to consider the M.C.O.P.No.27 of 2014 on merits in accordance with law, after providing opportunity to the parties concerned and dispose the M.C.O.P.No.27 of 2014 within four months from the date of receipt of a copy of this Judgment.

8. Accordingly, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

/True copy/

Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal,
(Chief Judicial Magistrate),
Kanniyakumari at Nagercoil.

Copy to: The Section Officer,
VR & ER Section,
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.T.Selvakumaran, Advocate Sr.No.52314
+1cc to Mr.P.Prabhakaran, Advocate Sr.No.52365

pmu
sm:PM:28/12/2016:3P/5C

C.M.A. (MD) .No.823 of 2016
and
C.M.P. (MD) No.7659 of 2016
14.09.2016