

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.03.2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Civil Miscellaneous Appeal No.123 of 2015
and
M.P.No.1 of 2015

The Branch Manager
United India Insurance Co. Ltd.
Branch Office, K.B.S. Motors Buildings
36, Katpadi Road, Gandhi Nagar
Vellore - 632 106 ... Appellant/2nd Respondent

Vs

1.Divya
2.K.Vijayan ... Respondents/Petitioner/I Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 10.04.2014, passed in M.C.O.P.No.185 of 2011, by the Motor Accident Claims Tribunal (Sub Court), Hosur.

For Appellant : Mr.S.Arunkumar
For Respondents: Mr.PA.Sudesh Kumar for R1

J U D G M E N T

(Made by S.Manikumar, J.)

Quantum of compensation of Rs.46,12,600/- with interest at the rate of 7.5% and costs, awarded in MCOP No.185/2011 dated 10.04.2014 on the file of Motor Accidents Claims Tribunal (Sub Judge), Hosur, awarded to the injured, is challenged on the grounds, negligence and quantum. Tribunal has quantified the said sum, as hereunder:

For permanent disability	: Rs.18,14,400/-
50% future prospects	: Rs. 9,07,200/-
Pain and suffering	: Rs. 3,00,000/-
Medical Bills	: Rs. 2,94,000/-
Further Medical Expenses	: Rs. 2,00,000/-

Attender charges for life long	: Rs. 1,00,000/-
Transportation for life long	: Rs. 50,000/-
Nutrition and healthy food	: Rs. 36,000/-
Loss of amputation for her life	: Rs. 3,00,000/-

	: Rs. 46,12,600/-

2. Civil miscellaneous appeal has been admitted on 06.02.2015. At the time of admission, this court has directed the appellant/insurance company, to deposit 50% of the award amount with interest and costs, to the credit of MCOP. On 15.10.2015, on the application filed by the injured/first respondent, a Hon'ble Division Bench of this court has permitted her, to withdraw 50% of the deposited amount, with proportionate interest and costs.

3. Today, when the matter came up for further hearing, learned counsel for the appellant/insurance company made his submissions, questioning negligence and the quantum of compensation.

4. Learned counsel for the first respondent/injured submitted that the injured/claimant, sustained a fracture of right leg and crush injury, in knee joint. At the time of accident, injured was studying 12th standard, and after the accident, she could not continue her study. It was the further contention that but for the accidental injuries, she would have pursued her CA and earning more. To support the same, the respondent has not produced any documentary evidence. Therefore, we are not inclined to accept the same.

5. At the time of accident, the injured was in 12th standard. The Tribunal has taken the notional the income of Rs.12,000/- as salary, which, in our view, is on the higher side and the same needs reduction. Hence the same is reduced to Rs.9,000/-. However, the Tribunal has adopted correct multiplier and percentage of disability assessed by PW2-doctor. Hence, on the head of permanent disability, compensation is reduced to Rs.13,60,800/-.

6. At the time of accident, injured was studying standard 12, and thereafter, would have pursued her higher studies and secured a job. Therefore, this court is not inclined to award any compensation under the head future prospects. The Tribunal has awarded Rs.3,00,000/- towards pain and suffering, which in our view, is on the higher side, considering the medical records, the same is reduced to Rs.2,00,000/-. Tribunal has awarded Rs.2,00,000/- under the head further medical expenses, which on consideration of material on record is on the higher

side and therefore, this court deems it fit to reduce it to Rs.1,00,000/-. So also is the attender charges, and this court deems it fit to reduce it to Rs.50,000/-. Compensation awarded under other heads has to be sustained. After going through the judgment and materials available on record, we deem it fit to modify the compensation, under the head permanent disability, and other heads as hereunder:

For permanent disability	: Rs. 13,60,800/-
9000 x 12 x 18 x 70%	
Pain and suffering	: Rs. 2,00,000/-
Medical Bills	: Rs. 2,94,000/-
Future Medical Expenses	: Rs. 1,00,000/-
Attender charges for life long	: Rs. 50,000/-
Transportation for life long	: Rs. 50,000/-
Nutrition and healthy food	: Rs. 36,000/-
Artificial limb cost	: Rs. 6,11,000/-

	: Rs. 27,01,800/-

After re-working, compensation, now determined by this court is Rs.27,01,800/-. Learned counsel for the appellant/insurance company submitted that 50% of the award amount with proportionate interest and costs, has already been deposited and the injured/claimant has been permitted to withdraw 50% of the deposited amount on 15.10.2015. Hence the appellant/insurance company is directed to deposit the balance amount with proportionate interest to the credit of MCOP No.185 of 2011 on the file of Motor Accident Claims Tribunal (Sub Judge), Hosur, within a period of four weeks from the date of receipt of a copy of this judgment. The Tribunal is directed to disburse the compensation amount, only, after due verification and identity of the claimant/1st respondent. We direct that, there should be strict compliance.

In the result, the civil miscellaneous appeal is partly allowed to the extent indicated above. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ASR

To

The Motor Accident Claims Tribunal,
(Sub Court), Hosur.

+lcc to Mr.S.Arunkumar, Advocate SR.15048

C.M.A.No.123 of 2015

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srg 24/03/2017



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