

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.02.2017

CORAM

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

C.M.A.No.2256 of 2011

Maharani ...Appellant/Petitioner
Vs

1.Uthirakumar
2.Reliance General Insurance Company,
89,100ft.Road,
Mudaliarpeta,
Pondicherry ...Respondents /Respondents

Civil Miscellaneous Appeal filed under Section 173 of M.V.Act of 1988, against the Judgment and Decree dated 06.09.2010 and made in M.C.O.P.No.312 of 2009, on the file of Motor Vehicles Accidents Claims Tribunal, learned Principal Subordinate Judge, Virudhachalam.

For Petitioner : Mr.S.Udhayakumar
For R1 : Served No Appearance
For R2 : Mr.S.Arunkumar

JUDGMENT

The claimant is the appellant. He has filed the claim petition for the injuries sustained by her in a Motor Accident which occurred on 12.09.2009. The Tribunal awarded Rs.1,83,258/- as against the claim of Rs.4,00,000/-.

2. The learned counsel for the appellant/claimant would submit that the Tribunal has not considered the age and the disability caused to the appellant. He would further submit that the Tribunal failed to give sufficient compensation for the future loss of income due to disablement. It is also his case that the compensation awarded towards transportation charges and attendant charges is inadequate.

3. The Tribunal awarded compensation as detailed below:-

Disability charges (2000x60%)	= Rs.1,20,000/-
Pain and suffering	= Rs. 25,000/-
Medical expenses	= Rs. 21,258/-
Conveyance expenses	= Rs. 5,000/-
Attender charges	= Rs. 3,000/-
Loss of income	= Rs. 9,000/-
Total	= Rs.1,83,258/-

4. The claimant was examined as P.W.1 and in support of her claim, she examined P.W.2 Doctor. It is seen from the materials on record that the claimant was treated at Government Hospital, Virudhachalam. She was referred to JIPMER Hospital, Pondicherry. Thereafter, she took treatment at Government Hospital, Chennai. Ex.P.9 is the Wound certificate. It is the evidence of P.W.2 Doctor that for bone fracture, she had undergone surgery. Considering the nature of the injuries, the Tribunal awarded Rs.1,20,000/- towards permanent partial disability. It had also awarded compensation under the head "medical expenses" incurred by the claimant. Under the head "pain and suffering", the Tribunal awarded Rs.25,000/-. However, the Tribunal awarded only Rs.5,000/- under the head "transportation charges". There is evidence to show that immediately after the accident, the claimant was taken to Virudhachalam Hospital and thereafter, she was taken to Pondicherry and thereafter, she took treatment at Chennai. Therefore, this Court is of the view that additional amount Rs.5,000/- is to be granted under the head "transportation charges".

5. Likewise, the Tribunal awarded only Rs.3,000/- towards attendant charges. It is seen from Ex.P-11 (treatment note) that the claimant was admitted to Government Hospital, Chennai on 07.04.2010. She was admitted on 13.09.2009 and discharged on 20.11.2009. Having regard to the period of hospitalization, I am inclined to award further amount of Rs.7,000/- under the head "attendant charges".

6. Having regard to the nature of the injury sustained by the claimant and the nature of treatment undergone by her, it is necessary to award a sum of Rs.13,000/- under the head of loss of income.

7. The claimant sustained fracture and took treatment. The claimant was 45 years old at the time of accident. She is stated to be a daily wage labour. Due to the injuries, there would be loss of amenities. Therefore, Rs.25,000/- is awarded under the head of loss of amenities.

8. In view of the above discussion, the compensation payable to the claimant is re-assessed is follows:-

Disability charges (2000x60%)	= Rs.1,20,000/-
Pain and suffering	= Rs. 25,000/-
Medical expenses	= Rs. 21,258/-
Conveyance expenses	= Rs. 10,000/-
Attender charges	= Rs. 10,000/-
Loss of income	= Rs. 13,000/-
Loss of amenities	= Rs. 25,000/-
Total	= Rs.2,24,258/-

9. In the result, the compensation awarded by the Tribunal is enhanced from Rs.1,83,258/- to Rs.2,24,258/-, with interest at 7.5% interest from the date of petition till the date of payment. The respondents, shall deposit the above enhanced award amount jointly or severally before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment. The appellant/claimant is at liberty to withdraw the award amount so deposited. The appellant/claimant shall pay Court fee, if any, for the enhanced compensation amount. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Virudhachalam.

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

+1cc to Mr.S.Udayakumar, Advocate, S.R.No.12885
+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.13762

C.M.A.No.2256 of 2011

VGI (CO)
RS (08/05/2017)