

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.510 of 2017

D.Gowri

... Appellant/Petitioner

Vs.

1. D.Manoj

2. ICICI Lombard General
Insurance Company Ltd,
No.1, Cenotaph Road,
Chennai - 1.

... Respondents/Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 16.04.2013 made in MCOP.No.2520 of 2010 on the file of the Motor Accident Claims Tribunal, (III Small Causes Court) Chennai.

For Appellant : M/s. V.Mohan Choudary
For Respondents : Mrs.R.Sreevidya (R2)

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.2520 of 2010, on 16-04-2013, the claimant has come forward with this Civil Miscellaneous Appeal.

2. The claimant D.Gowri who was aged 42 years, employed as a Tailor, earning a sum of Rs.4,500/- per month, met with an accident that occurred on 24.05.2010. Due to which, she sustained fracture over the right femur, left foot great toe and also sustained grievous injuries. Hence, she filed a claim petition in M.C.O.P.No.2520 of 2010, seeking compensation for a sum of Rs.7,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.1,11,715/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as follows:

Loss of Income	-	Rs. 18,000/-
Transport to Hospital	-	Rs. 3,000/-
Extra Nourishment	-	Rs. 7,000/-
Medical Expenses	-	Rs. 3,715/-
Pain and Sufferings	-	Rs. 20,000/-
Permanent disability (30x2000)	-	Rs. 60,000/-
Total		Rs.1,11,715/-

4. The learned counsel for the appellant submitted that though the Doctor has assessed the disability @ 35%, the tribunal has fixed the disability @ 30% . It is further submission that the amount of compensation awarded by the tribunal is very low, for the grievous injuries and fracture sustained by the claimant and the compensation needs to be enhanced.

5. A perusal of the award would go to show that P.W.2- doctor- who examined the claimant, in his evidence has categorically stated that due to the fracture and injuries sustained by the claimant, it would be difficult for her even to walk freely as before and assessed disability @ 35%. But, the tribunal has fixed the disability @ 30% and by taking Rs.2,000/- per percentage a sum of Rs.60,000/- was awarded towards permanent disability.

6. The claimant being a tailor had suffered fracture on the left femur and therefore could not be able to carry on her avocation during the period she was taking treatment i.e. atleast for eight months. Therefore, by fixing a sum of Rs.4,500/- as monthly income a sum of Rs.36,000/- is awarded towards loss of income (8x4500).

7. Considering the nature of injuries and the fracture sustained by the claimant, fixing disability @ 30% and since the accident is of the year 2010, taking Rs.3,000/- per percentage, a sum of Rs.90,000/- is now awarded towards permanent disability.

8. Considering the nature of injury and the period of treatment undergone by the claimant, a sum of Rs.25,000/- is awarded under the head Pain and Sufferings and Rs.10,000/- is awarded towards extra nourishment, a sum of Rs.10,000/- is awarded towards Transport to hospital and a sum of Rs.5,000/- is awarded towards Medical Expenses.

9. In fine, the amount of compensation awarded is enhanced from Rs.1,11,715/- to Rs.1,76,000/-, as follows:

Loss of Income	-	Rs. 36,000/-
Transport to Hospital	-	Rs. 10,000/-
Extra Nourishment	-	Rs. 10,000/-
Medical Expenses	-	Rs. 5,000/-
Pain and Sufferings	-	Rs. 25,000/-
Permanent disability	-	Rs. 90,000/-

Total Rs.1,76,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the Compensation from Rs.1,11,715/- to Rs.1,76,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arr
To

The Motor Accident Claims Tribunal,
(III Small Causes Court), Chennai.

+ 1 cc to Mr.R. Sree Vidhya, Advocate Sr.15877
+ 2 ccs to Mr.V. Mohanchoudary, Advocate Sr.15257

CMA.No.510 of 2017

CA(CO)
Eu 18.4.17

सत्यमेव जयते

WEB COPY