

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 14.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.740 of 2017

K. Parvathy

....Appellant/Petitioner

Vs.

1.R.Gopal

2.V.Prabakaran

3.The Manager,

National Insurance Company Ltd.,

Post Box No.157, I Floor,

No.19, Officer Line,

Opp.Lakshmi Theatre,

Vellore.

... Respondents/Respondent

(Respondent 1 & 2 were set exparte  
before the court below)

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.07.2012 made in MCOP.No.653/2010 on the file of the Motor Accident Claims Tribunal, (District Court-II), Kancheepuram.

For Petitioner

: Mr.M.Sivakumar

For Respondents

: Mrs.N.B.Surekha (R3)

R1 and R2 Exparte.  
before Tribunal

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.653 of 2010, on 31.07.2012, the claimant has come forward with this Civil Miscellaneous Appeal.

2. The claimant K.Parvathy who was aged 45 years, employed as silk weaver, earning a sum of Rs.4,500/- per month, met with an accident that occurred on 10.09.2006. Due to which, she sustained fracture over the left leg and also sustained grievous injuries. Hence, she filed a claim petition in M.C.O.P.No.653 of 2010, seeking compensation for a sum of Rs.5,50,000/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.75,000/-, 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:

|                      |   |                    |
|----------------------|---|--------------------|
| Permanent disability | - | Rs.60,000/-        |
| Medical expenses and |   |                    |
| Transport Charges    | - | Rs.10,000/-        |
| Loss of earnings     | - | Rs.5,000/-         |
| Total                |   | <u>Rs.75,000/-</u> |

4. The learned counsel for the appellant submitted that though the Doctor has assessed the disability @ 45%, the tribunal has fixed the disability @ 35% which is very low. 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 the claimant has sustained fracture in the left leg and it would be difficult even to walk freely as before and assessed disability @ 45%. But, the tribunal has fixed the disability @ 35%. Considering the nature of injuries and the fracture sustained by the claimant, fixing disability @ 45% and taking Rs.2,000/- per percentage, a sum of Rs.90,000/- is awarded under towards permanent disability.

6. Considering the nature of injury and the period of treatment undergone by the claimant, a sum of Rs.10,000/- is awarded under the head Pain and Sufferings and Rs.5,000/- is awarded towards extra nourishment.

7. In fine, the amount of compensation awarded is enhanced from Rs.75,000/- to Rs.1,20,000/-, as follows:

|                      |   |                      |
|----------------------|---|----------------------|
| Permanent disability | - | Rs.90,000/-          |
| Medical expenses and |   |                      |
| Transport Charges    | - | Rs.10,000/-          |
| Loss of earnings     | - | Rs. 5,000/-          |
| Pain and sufferings  | - | Rs.10,000/-          |
| Extra nourishment    | - | Rs. 5,000/-          |
| Total                |   | <u>Rs.1,20,000/-</u> |

8. In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the Compensation from Rs.75,000/- to Rs.1,20,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The interest shall be waived for the delay period of 452 days. No costs.

-s/d-  
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,  
(District Court-II), Kancheepuram.

2. The Section Officer  
VR Section  
High Court Madras-104

+1 cc to M/s.C.Prabakaran Advocate sr 15790

+1 cc to M/s.N.B.Surekha Advocate sr 15878

CMA.No.740 of 2017

mp(co)  
aa13/04/2017

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