



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1249 of 2015

K.Maheswari

(Minor has been declared as major
vide order dated 22.11.2017
C.M.P. (MD) .No.10679 of 2017 in
CMA. (MD) .No.1249 of 2015)

... Appellant/ Petitioner

Vs.

1.Selvaraj

2.The Oriental Insurance Company Limited,
7-A, North Cotton Road,
Thoothukudi.

... Respondents/ Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.03.2010, made in M.C.O.P.No.12 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thoothukudi.

For Appellant : Mr.V.Nagendran

For R-2 : Mr.K.Bhaskaran

For R-1 : No Appearance

JUDGMENT

The appellant has filed this appeal seeking enhancement of compensation. The appellant met with an accident on 15.05.2008. The Tribunal rightly held that the accident occurred on account of rash and negligence on the part of the bus driver employed by the first respondent herein. Since the second respondent is the insurer, the liability was fastened on the second respondent. The Tribunal awarded a sum of Rs.1,83,800/-. Contending that this sum is woefully inadequate, this Civil Miscellaneous Appeal has been filed.



3. It has been convincingly established that the appellant suffered the following injuries:-

Fracture and dislocation of Right hip, open wound over right hip, internal injuries in pelvic region (Urine tube completely crushed-urine is separated by artificial means) and laceration over left dorsum of foot.

4. The doctor assessed the disability suffered by her as 40%. The Tribunal reduced the same to 32%. The appellant had undergone as many as three surgeries in four hospitals. Therefore, the compensation payable to the claimant will have to be necessarily reworked as under:

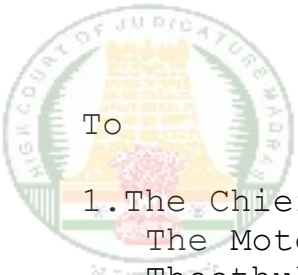
Sl.No	Heads	Amount in Rupees
1.	Permanent Disability	Rs. 1,00,000/-
2.	Pain and suffering	Rs. 2,00,000/-
3.	Medical expenditure including future expenses	Rs. 1,00,000/-
4.	Transportation	Rs. 50,000/-
5.	Loss of amenities	Rs. 50,000/-
	Total	Rs.5,00,000/-

5.The compensation awarded by the Tribunal is enhanced from Rs.1,83,800/- to Rs.5,00,000/-. The award dated 09.03.2010, made in M.C.O.P.No.12 of 2009 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thoothukudi, is accordingly modified.

6.The second respondent insurance company is directed to deposit the entire compensation amount of Rs.5,00,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by her, if any, by filing proper application before the Tribunal.

7.This Civil Miscellaneous Appeal stands allowed, as prayed for. No costs.

Sd/-
Assistant Registrar(CO)



To

1.The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Thoothukudi.

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1CC TO M/S.V.NAGENDRAN, ADVOCATE, SR NO.88941

+1CC TO M/S.N.BHASKARAN, ADVOCATE, SR NO.88848

C.M.A. (MD) No.1249 of 2015
22.11.2017

kmi

MS/SV-MMS/SAR.4/26.02.2018/3P.6C